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CLERK U.S. DISTRICT COURT  
JAN 3 1989  
CENTRAL DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

GARY FERNANDEZ,	)	Case No. SA CV88-556 JSL (RWRx)
	)	
Plaintiff,	)	SECOND AMENDED COMPLAINT FOR
	)	DAMAGES FOR VIOLATION OF 18
v.	)	U.S.C. §1961 (CIVIL RICO; FOR
	)	GOODS SOLD AND DELIVERED;
DAVID HALL; PROFESSIONAL COIN	)	BREACH OF ORAL CONTRACT; INTEN-
GRADING SERVICE, a California	)	TIONAL INFLICTION OF EMOTIONAL
corporation; STEVEN IVY;	)	DISTRESS; NEGLIGENT INFLICTION
JAMES HALPERIN; HERITAGE	)	OF EMOTIONAL DISTRESS;
CAPITAL CORPORATION, a Texas	)	CONVERSION; CLAIM AND DELIVERY;
corporation; and DOES 1	)	AND PENDENT STATE COMMON COUNT
through 20, inclusive,	)	CLAIMS
	)	
Defendants.	)	[DEMAND FOR JURY TRIAL]

Plaintiff alleges:

JURISDICTION AND VENUE

1. This action arises under 18 U.S.C. Sections 1961 and 1962 and pendant state claims as hereinafter more fully alleged. This court has jurisdiction under and by virtue of 18 U.S.C. Section 1961 et seq.

2. Venue is founded in this judicial district upon 18 U.S.C. Section 1965(a) as the place of residence of defendant David Hall is in this district, as well as this being the district in

1 which defendant Professional Coin Grading Service has its corporate  
2 offices, where plaintiff's coins have been secreted, and is a  
3 district within which Heritage Capital Corporation does business.  
4

5 PARTIES

6 3. At all times herein mentioned, plaintiff Gary Fernandez  
7 was and now is, a citizen of the United States, and a resident of  
8 the State of California, County of Alameda, and at all times herein  
9 mentioned was doing business throughout the state of California and  
10 the United States as a rare coin dealer.

11 4. Plaintiff is informed and believes, and thereon alleges,  
12 that Professional Coin Grading Service (hereinafter referred to as  
13 "PCGS") is, and at all times herein mentioned was, a California  
14 corporation, with its principal place of business in the County of  
15 Orange, City of Newport Beach, State of California. Plaintiff is  
16 further informed and believes, and thereon alleges, that said  
17 corporation does business throughout the United States and is an  
18 enterprise within the meaning of 18 U.S.C. Section 1961(4).

19 5. Plaintiff is informed and believes, and thereon alleges,  
20 that defendant David Hall is a person whose residence is in the  
21 City of Newport Beach, County of Orange, State of California.

22 6. Plaintiff is informed and believes, and thereon alleges,  
23 that Heritage Capital Corporation (hereinafter referred to as  
24 "Heritage") is a corporation organized in the State of Texas and  
25 doing business throughout the State of California, including  
26 Newport Beach, California, and that Heritage is an enterprise  
27 within the meaning of 18 U.S.C. Section 1961(4).

28 7. Plaintiff is informed and believes, and thereon alleges

1 that defendants Steven Ivy and James Halperin are now, and at all  
2 times herein mentioned were, persons who are residents of the State  
3 of Texas.

4 8. Plaintiff is ignorant of the true names and capacities  
5 and identities of defendants DOES 1 through 20 and therefore sues  
6 said defendants by such fictitious names, and will ask leave of  
7 court to amend this complaint and set forth the true names and  
8 capacities of said defendants when same are ascertained.

9 9. Plaintiff is informed and believes, and thereon alleges,  
10 that each of the Doe defendants were, and are, in some way liable  
11 for the losses hereinafter alleged to plaintiff, and plaintiff will  
12 amend this complaint to set forth the true nature of the acts  
13 and/or omissions of each said Doe defendant, proximately causing  
14 said loss to plaintiff when said loss is ascertained.

15 10. Plaintiff is informed and believes, and thereon alleges,  
16 that each of the individual defendants herein, including defendants  
17 Does 1 through 20 were and are the agents, employees or  
18 representatives of Hall, Halperin and/or Ivy, and in doing the  
19 things herein alleged, were acting within the scope and agency of  
20 said employment.

21 11. Plaintiff is informed and believes, and thereon alleges  
22 that each and all of the defendants herein, in doing the act or  
23 actions herein alleged, were acting in consort with, and as the  
24 agents, employees, or representatives of each and all of their co-  
25 defendants and in furtherance of a conspiracy between Hall,  
26 Halperin, Ivy & Does 1 through 20.

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1 is accepted as being the same as any other 1892 MS. 64 \$5.00  
2 "Liberty". The buyer doesn't see the coin until after the  
3 transaction is made and the buyer's check is mailed.

4 15. Plaintiff, having been a member of PCGS and a subscriber  
5 to the "ANE" wire service, is informed and believes that the vast  
6 majority of transactions in PCGS graded coins are conducted through  
7 the use of the "ANE" wire service, with payment for the coin sent  
8 through the U.S. Mail.

9 16. Plaintiff is informed and believes, and thereon alleges  
10 that Heritage Capital Corporation is an enterprise engaged in the  
11 business of buying and selling coins within the numismatic industry  
12 and through the United States mails, among other methods.

13 Plaintiff is further informed and believes and thereon alleges that  
14 the price paid for or received by Heritage is, in part, determined  
15 by the grade (appraisal) of any specific coin being bought or sold  
16 by it. Plaintiff is further informed and believes and thereon  
17 alleges that HCC was a member of PCGS and used, on an almost  
18 exclusive basis, PCGS to grade (appraise) coins sold by said HCC.

19 17. Plaintiff is informed and believes and thereon alleges  
20 that defendants Hall, Ivy and Halperin did form an association and  
21 conspiracy to engage in unlawful acts and violate plaintiff's  
22 rights in an attempt to put plaintiff out of business by the  
23 conduct hereinafter expressly set forth.

24 PATTERN OF RACKETEERING ACTS

25 18. Plaintiff is informed and believes and thereon alleges  
26 that defendants Ivy, Halperin and Hall have engaged in two or more  
27 racketeering acts as prohibited by 18 U.S.C. 1961, et seq. as  
28 follows:

1 (a) Within ten years last past, to wit, in or about  
2 October of 1987, Hall, through an agent, DOE XX violated 18 U.S.C.  
3 Sections 471, 472, and 473 and USC 1341 relating to counterfeiting  
4 in that Hall did transport through interstate mail, for the purpose  
5 of passing same off to Alan Hagar as authentic, a 1892 \$5.00  
6 "Liberty" United States coin being a counterfeit coin. Plaintiff  
7 is informed and believes that Hall knew at the time that said coin  
8 was counterfeit;

9 (b) Within ten years last past, to wit, in or about  
10 November, 1987, plaintiff is informed and believes that defendant  
11 Hall violated 18 U.S.C. Sections 471, 472, and 473 and 18 USC 1341  
12 relating to counterfeiting in that Hall did transport through or  
13 cause to be transported through interstate mail, (in violation of 18  
14 U.S.C. 1341) for the purpose of passing same of to Alan Hagar as an  
15 authentic United States Coin, a 1925 D "Indian" counterfeit coin.  
16 Plaintiff is informed and believes that Hall knew at the time that  
17 said coin was counterfeit;

18 (c) Plaintiff is informed and believes that the acts of  
19 Hall as identified in Paragraph 18 (a) and (b) hereof were part of  
20 an effort to put Alan Hagar out of business by discrediting said  
21 Alan Hagar and his competing appraisal and grading business known  
22 as "ACCUGRADE". In furtherance of the object of putting  
23 "ACCUGRADE" out of business, plaintiff is informed and believes  
24 that defendant Hall did, in violation of 18 U.S.C. 1951(a), in or  
25 about October of 1987, physically, threaten the person of Alan  
26 Hagar, both personally and through Does XVIII and XIX by threats of  
27 physical injury in an attempt to obstruct and interfere with Alan  
28 Hagar's business "Accugrade" as a competitor in interstate commerce

1 with defendant Hall's Company, PCGGS.

2 19. Plaintiff is informed and believes and thereon alleges  
3 that as and each of them have engaged in the above pattern of acts  
4 with respect to plaintiff as they had with respect to Alan Hagar  
5 for the purpose of putting plaintiff out of business.

6 20. Within ten years last past, to wit, in or about July  
7 1988, plaintiff is informed and believes that defendants Hall, Ivy  
8 and Halperin conspired to, and did violate 18 U.S.C. Sections 2314  
9 and 2315 relating to interstate transportation of stolen property  
10 in that defendants Hall, Ivy and Halperin caused the coins  
11 identified in Exhibit "A" hereof, received by Heritage (pursuant to  
12 the theft by fraud herein alleged in paragraph 21 hereof) to be  
13 transported from Ohio to New York and/or California and/or Texas;

14 21. Plaintiff is informed and believes that within ten  
15 years last past, to wit, July of 1988, defendant Halperin, acting  
16 on behalf of the conspiracy alleged in Paragraph 17 hereof,  
17 physically threatened Brian Fazio (who acted as an agent for  
18 Plaintiff) if Fazio continued to do business with plaintiff, which  
19 said physical threat constituted a violation of 18 U.S.C. §1951;

20 COUNT ONE

21 (RICO)

22 22. Plaintiff hereby incorporates by reference, paragraphs  
23 1 through 21 as if fully set forth herein.

24 23. Plaintiff is informed and believes, and thereon  
25 alleges that defendants Hall, Ivy, & Halperin and Does 2 through  
26 10, inclusive, conspired to commit and committed mail fraud in  
27 violation of 18 U.S.C. Section 1341, in that they took coins and  
28 inventory of plaintiff through the use of a scheme and artifice

1 with the intent to obtain plaintiff's property and permanently  
2 deprive plaintiff thereof, through the use of the United States  
3 Mails, by deceit and through making the following material  
4 misrepresentations of fact:

5 (i) On or about July 14, 1988, defendants  
6 Halperin and Ivy, and Does 2 through 5, inclusive, represented to  
7 plaintiff and plaintiff's agent Brian Fazio, that they would pay  
8 the fair market price of \$807,378 as agreed upon by the parties and  
9 set forth in Exhibit "A" hereof for gold and silver coins;

10 (ii) That defendants Halperin, Ivy and Does 2  
11 through 5, inclusive, represented that they were acquiring said  
12 coins for, and on behalf of the enterprise known as Heritage  
13 Capital Corporation, in an arms length business transaction common  
14 within the numismatic industry;

15 (iii) That plaintiff would be paid the agreed upon  
16 sum of \$807,374 for the specified coins, payment to be mailed  
17 through the United States mails.

18 24. The truth, known to defendants Halperin, Ivy and Hall,  
19 but unknown to plaintiff, was that:

20 (i) Defendants Ivy, Halperin, and Does 2 through  
21 5, inclusive, acting in association and conspiracy with defendants  
22 Hall and Does 6 through 10, intended to acquire, without payment  
23 therefor, all of plaintiff's coin inventory with the intent to  
24 permanently deprive plaintiff thereof without payment therefor, for  
25 the purpose of putting plaintiff out of business.

26 (ii) That defendants Halperin, Ivy, and Does 2  
27 through 5, inclusive, acting as directors, officers, agents and  
28 employees of Heritage, and acting at all times within the scope of

1 such agency and employment, sought to deprive plaintiff of his  
2 property without any compensation whatsoever, and intended to and,  
3 in fact did, effect a theft of plaintiff's property having an  
4 approximate value at the time of said theft of the sum of \$807,374.

5 25. That after taking possession of plaintiff's coins,  
6 defendants Hall, Ivy and Halperin first violated 18 U.S. C. 1341 by  
7 mailing through United States mail and thereafter dishonoring check  
8 for payment for said coins and thereafter violated Sections 2314  
9 and 2315 by transporting said coins from Ohio to the states of New  
10 York, Texas and California;

11 26. Plaintiff is informed and believes that within ten years  
12 last past, to wit, on or about July 10, 1988, defendants Ivy and  
13 Halperin conspired to commit and committed mail fraud in violation  
14 of 18 U.S.C. 1341 in that they caused HCC to obtain property of  
15 Plaintiff being Gold and Silver coins having a value of \$84,310 and  
16 agreeing to pay for same by check sent through the United States  
17 mail and thereafter caused said HCC to check to be dishonored,  
18 effecting the scheme to obtain Plaintiff's property through the use  
19 of the United States mails.

20 27. Plaintiff is informed and believes and thereon alleges  
21 that all acts of defendants and each of them, was done with intent  
22 to defraud plaintiff of his property.

23 28. Plaintiff is informed and believes and thereon alleges  
24 that on or about July 10, 1988 defendants Ivy and Halperin  
25 conspired to and did commit mail fraud in violation of 18 U.S.C.  
26 1341 in that they caused HCC to obtain property of plaintiff having  
27 a fair market value of \$84,310, being Gold and Silver coins and  
28 representing that same would be paid for by check sent through the

1 United States Mail.

2 29. Plaintiff is informed and believes, and thereon alleges  
3 that defendants Hall, Ivy, & Halperin and Does 2 through 10,  
4 inclusive, conspired to commit and committed mail fraud in  
5 violation of 18 U.S.C. Section 1341, in that they took coins and  
6 inventory of plaintiff through the use of a scheme and artifice  
7 with the intent to obtain plaintiff's property and permanently  
8 deprive plaintiff thereof, through the use of the United States  
9 Mails, by deceit and through making the following material  
10 misrepresentations of fact:

11 (i) On or about July 10, 1988, defendants  
12 Halperin and Ivy, and Does 2 through 5, inclusive, represented to  
13 plaintiff in a telephone conversation that HCC would pay the fair  
14 market price of \$84,310 as agreed upon by the parties for certain  
15 gold and silver coins.

16 (ii) That defendants Halperin, Ivy and Does 2  
17 through 5, inclusive, represented that they were acquiring said  
18 coins for, and on behalf of the enterprise known as Heritage  
19 Capital Corporation, in an arms length business transaction common  
20 within the numismatic industry;

21 (iii) That plaintiff would be paid the agreed upon  
22 sum of \$84,310 for the coins, payment to be mailed through the  
23 United States mails.

24 (iv) Defendants Halprin, Hall and Ivy used  
25 interstate wire transmission in the form of a telephone  
26 conversation in furtherance of its scheme and artifice to obtain  
27 plaintiff's property without payment therefor in that, on or about  
28 July 10, 1988 prior to plaintiff's delivery of the coins referred

1 to in paragraph 29.(i) hereof, plaintiff received a call from an  
2 employee of HCC whom plaintiff is informed and believes and thereon  
3 alleges was acting at the express instructions of defendants  
4 Halprin and Ivy and who advised plaintiff that if plaintiff would  
5 send the coins that day, HCC would mail its check in payment  
6 therefor in the sum of \$84,310 concurrently.

7 (v) Had plaintiff not received the check for  
8 \$84,310 plaintiff would not have parted with the \$807,378 in gold  
9 and silver coins referred to in paragraph 23.(i) hereof.

10 (vi) Plaintiff is informed and believes that both  
11 the phone call and the mailing of the \$84,310 check, (later  
12 dishonored) were part of the scheme and artifice to deprive  
13 plaintiff of his property, both with respect to the \$84,310 worth  
14 of gold and silver coins referred to in paragraph 29. (i) hereof  
15 and with respect to the \$807,378 worth of gold and silver coins  
16 referred to in paragraph 23. (i) hereof in that plaintiff would not  
17 have sent \$807,378 worth of coins had not plaintiff received the  
18 check for \$84,310. Plaintiff further alleges that the \$807,378  
19 transaction referred to in paragraph 23. (i) occurred subsequent to  
20 receipt of the \$84,310 check and prior to notification that said  
21 check had been dishonored by HCC.

22 30. The truth, known to defendants Halperin, Ivy and Hall,  
23 but unknown to plaintiff, was that:

24 (i) Defendants Ivy, Halperin, and Does 2 through  
25 5, inclusive, acting in association and conspiracy with defendants  
26 Hall and Does 6 through 10, intended to acquire, without payment  
27 therefor, all of plaintiff's coin inventory with the intent to  
28 permanently deprive plaintiff thereof without payment therefor, for

1 the purpose of putting plaintiff out of business.

2 (ii) That defendants Halperin, Ivy, and Does 2  
3 through 5, inclusive, acting as directors, officers, agents and  
4 employees of Heritage, and acting at all times within the scope of  
5 such agency and employment, sought to deprive plaintiff of his  
6 property without any compensation whatsoever, and intended to and,  
7 in fact did, effect a theft of plaintiff's property having an  
8 approximate value at the time of said theft of the sum of \$807,374.

9 31. Plaintiff is informed and believes and thereon alleges  
10 that all acts of defendants and each of them, were done with the  
11 intent to defraud plaintiff of his property;

12 32. On or about July 14, 1988, plaintiff received a check  
13 sent through the United States Mail from HCC for the sum of \$84,310  
14 in payment for said Gold and Silver coins referred to in Paragraph  
15 28 and 29;

16 33. On or about July 14, 1988, plaintiff was informed that  
17 said check from HCC referred to in Paragraph 32; was dishonored by  
18 HCC.

19 (34. Plaintiff is informed and believes that defendants Ivy  
20 and Halperin, acting on behalf of the conspiracy alleged in  
21 Paragraph 17 hereof caused said check referred to in Paragraph 32  
22 and 33 to be dishonored pursuant to a scheme and artifice to  
23 deprive plaintiff of his property, all in violation of 18 U.S.C.  
24 1341.

25 35. If plaintiff had known the true facts to be as set forth  
26 in Paragraphs 30 above, plaintiff would not have engaged in the  
27 transaction hereinabove alleged, nor would plaintiff have delivered  
28 said coins to Ivy, Halperin or Does 1 through 5 nor would plaintiff

1 have accepted payment to be made by check sent through the United  
2 States mails.

3 36. Plaintiff was reasonable in assuming the veracity and  
4 truth of the statements of defendants Ivy, Halperin and Does 2  
5 through 5, as set forth in Paragraphs 23 (i), (ii) and (iii) and 29  
6 (i), (ii), (iii) in that said defendants and plaintiff have done  
7 business over a several year period in the past, and plaintiff has  
8 always been paid for coins purchased by HCC by check sent through  
9 the United States mail. Accordingly, plaintiff was justified in  
10 the assumption that HCC would continue to pay by check sent through  
11 the United States mail for gold and silver coins shipped to them at  
12 their specific request without thereafter dishonoring same.

13 37. As a direct and proximate result of the theft effected  
14 through fraud and device as hereinabove alleged, plaintiff has  
15 sustained damages in the sum of \$807,376 and \$84,310. Plaintiff  
16 seeks that said sum be tripled and that plaintiff be awarded  
17 Attorneys fees pursuant to 18 U.S.C. Section 1964.

18 38. By reason of the acts of racketeering and the pattern of  
19 racketeering as above alleged by defendants Ivy, Halperin, hall and  
20 Does 2 through 10, inclusive, and the conspiracy to commit he acts  
21 of theft from plaintiff and interstate transportation of those  
22 stolen goods as alleged in Paragraphs 23, 24, 29 and 30 plaintiff  
23 has been damaged in the sum of \$807,374 and \$84,310 accordingly,  
24 plaintiff seeks damages in said sum and that said sum be tripled  
25 and that defendants be required to pay plaintiff's attorney's fees.

26 39. Plaintiff is informed and believes, and thereon alleges  
27 that at all times herein mentioned defendants Ivy, Halperin and  
28 Does 2 through 5, inclusive, were the agents, employees, directors

1 or officers of the enterprise known as Heritage Cap. tion  
2 and that in doing the things herein alleged were acting within the  
3 course and scope of said agency and employment, thus rendering  
4 Heritage liable for any damages attributable to said persons by  
5 reason of respondeat superior.

6 40. Plaintiff is informed and believes, and thereon alleges  
7 that Defendant Hall and defendants Does 6 through 10 were acting at  
8 all times herein mentioned as the agents, employees, officers or  
9 directors of the enterprise known as Professional Coin Grading  
10 Services and that at all times herein mentioned they were acting  
11 within the course and scope of said agency and employment;  
12 accordingly, plaintiff seeks damages from Professional Coin Grading  
13 Services on the basis of respondeat superior.

14  
15 COUNT TWO

16 (RICO - Insider Grading)

17 18 USC 1341 & 1343

18 41. Plaintiff incorporates by this reference each and every  
19 allegation contained in Paragraphs 1 through 24 hereof as though  
20 set forth hereat in full.

21 42. Plaintiff is informed and believes that defendant Hall,  
22 in conspiracy with defendant Ivy and Halperin and Does 11-17 have  
23 engaged in a scheme and artifice to manipulate the value of various  
24 coins fraudulently overgraded as hereinafter alleged in violation  
25 of 18 U.S.C. 1341 and 18 U.S.C. 1343 and effected said scheme by  
26 and through the use of the United States mail and through the use  
27 of any interstate wire system known as "ANE" specifically for  
28 members of PCGS in violation of 18 U.S.C. 1341 and 1343

1           43. Plaintiff is informed and believes, and thereon alleges,  
2 that Steven Ivy and James Halperin, by and through Heritage Capital  
3 Corporation, acquired an interest in (and are undisclosed  
4 principals and owners of) an equity interest in an entity known as  
5 the David Hall Group, which said group, plaintiff is informed and  
6 believes, is the owner (either equitably or legally) of an interest  
7 in Professional Coin Grading Services. Plaintiff is further  
8 informed and believes, and thereon alleges, that said interest was  
9 acquired in or about March of 1986 for a sum approximating \$2  
10 million dollars.

11           44. Subsequent to April of 1986, David Hall and Halperin and  
12 Ivy, conspired to and agreed to (and did in fact) commence a course  
13 of conduct pursuant to which favored members of the PCGS service  
14 obtained grades for coins submitted to PCGS for grading in excess  
15 of the true, accurate and fair grading for said coin, enabling the  
16 favored party to obtain, on the open market, and through the use of  
17 an interstate wire service known as "ANE" price for said coin far  
18 in excess of its actual fair market value.

19           45. Plaintiff is informed and believes, and thereon alleges,  
20 that such specific overgrading for insiders included overgrading  
21 for coins submitted to PCGS by Heritage Capital Corporation and  
22 others sued herein as Does 6-17, inclusive. Without limitation  
23 said overgraded coins include:

24           (a) PCGS Coin Number 7124745, a 1883 "O" originally  
25 graded M.S. 65; purchased by plaintiff on 9/29/88, resubmitted for  
26 grading by plaintiff through an agent and was regraded as MS.64  
27 said lower grading has adversely effected the value of said coin in  
28 an amount not yet ascertained. Plaintiff will amend to set forth

1 the amount when ascertained.

2 (b) PCGS Coin Number 7124740, originally graded M.S.  
3 65; purchased by plaintiff on 9/29/88, resubmitted to PCGS for  
4 grading by Plaintiff through an agent and which was regraded as MS.  
5 64 said lower grading has adversely effected the value of said coin  
6 in an amount not yet ascertained, plaintiff will amend to set forth  
7 the loss when it is known.

8 (c) PCGS Coin Number 8070958, originally graded M.S.  
9 64; purchased by plaintiff on 9/29/88, resubmitted to PCGS for  
10 grading by plaintiff through an agent and which was regraded as  
11 MS. 63 said lower grading has adversely effected the value of said  
12 coin in an amount not yet ascertained, plaintiff will amend to set  
13 forth the loss when it is known.

14 (d) PCGS Coin Number 9006886, originally graded M.S.  
15 64P/L; purchased by plaintiff resubmitted through an agent for  
16 regrading as MS. 63 said lower grading has adversely effected the  
17 value of said coin in an amount not yet ascertained, plaintiff will  
18 amend to set forth the loss when it is known.

19 (e) PCGS Coin Number 8041794, originally graded M.S.  
20 65; purchased by plaintiff on 9/29/88 resubmitted through an agent  
21 for regrading as MS. 64, said lower grading has adversely effected  
22 the value of said coin in an amount not yet ascertained, plaintiff  
23 will amend to set forth the loss when it is known.

24 (f) PCGS Coin Number 7110569, originally graded M.S.  
25 66; purchased by plaintiff on 9/29/88 resubmitted through and agent  
26 for regrading, it was returned ungradeable, said ungrading  
27 adversely effected the value of said coin in an amount not yet  
28 ascertained, plaintiff will amend to set forth the loss when it is

1 known.

2 (g) PCGS Coin Number 8035447, originally graded M.S.  
3 63; purchased by plaintiff on 9/29/88 resubmitted through an agent  
4 for regrading as MS. 64, said lower grading has adversely effected  
5 the value of said coin in an amount not yet ascertained, plaintiff  
6 will amend to set forth the loss when it is known.

7 (h) PCGS Coin Number 1278325, originally graded M.S.  
8 66; purchased by plaintiff on 9/29/88 resubmitted through an agent  
9 for regrading as MS. 64, said lower grading has adversely effected  
10 the value of said coin in an amount not yet ascertained, plaintiff  
11 will amend to set forth the loss when it is known.

12 (i) PCGS Coin Number 2250475, originally graded M.S.  
13 65; purchased by plaintiff on 9/29/88 resubmitted through an agent  
14 for regrading as MS. 64, said lower grading has adversely effected  
15 the value of said coin in an amount not yet ascertained, plaintiff  
16 will amend to set forth the loss when it is known.

17 (j) PCGS Coin Number 6077910, originally graded M.S.  
18 64; purchased by plaintiff on 9/29/88 resubmitted through an agent  
19 for regrading as MS. 63, said lower grading has adversely effected  
20 the value of said coin in an amount not yet ascertained, plaintiff  
21 will amend to set forth the loss when it is known.

22 (k) PCGS Coin Number 8046204, originally graded M.S.  
23 63; purchased by plaintiff on 9/29/88 resubmitted through an agent  
24 for regrading as MS. 62, said lower grading has adversely effected  
25 the value of said coin in an amount not yet ascertained, plaintiff  
26 will amend to set forth the loss when it is known.

27 (l) PCGS Coin Number 6077928, originally graded M.S.  
28 63; purchased by plaintiff on 9/29/88 resubmitted through an agent

1 for regrading as MS. 62, said lower grading has adversely effected  
2 the value of said coin in an amount not yet ascertained, plaintiff  
3 will amend to set forth the loss when it is known.

4 (m) PCGS Coin Number 6078039, originally graded M.S.  
5 63, purchased by plaintiff on 9/29/88 resubmitted through an agent  
6 for regrading as MS. 62, said lower grading has adversely effected  
7 the value of said coin in an amount not yet ascertained, plaintiff  
8 will amend to set forth the loss when it is known.

9 46. Plaintiff is further informed and believes, and thereon  
10 alleges, that by reason of said insider over grading, defendants  
11 Hall, Halperin, Ivy and Does 1 through 20, inclusive, engaged in  
12 and committed a violation of 18 U.S.C. §1961 in that said  
13 fraudulently graded coins were upon information and belief, placed  
14 into interstate commerce by United States mail by PCGS.

15 47. Plaintiff is informed and believes, and thereon alleges  
16 that after original grading said coins were placed into interstate  
17 commerce through the use of the United States mail and/or offered  
18 for sale through the United States mails and /or interstate wire  
19 service ("ANE") owned and operated by a wholly owned affiliate of  
20 PCGS and with full knowledge of PCGS. Said false and fraudulently  
21 graded coins were not of the values as represented, and all in  
22 violation of 18 U.S.C. §1341 and §1343.

23 48. Plaintiff is informed and believes, and thereon alleges,  
24 that the beneficiaries of said insider over grading and the  
25 resultant acts of mail and wire fraud occurring thereby are,  
26 without limitation, include William Spears, Joe Flynn, James  
27 Halperin, David Hall, the David Hall Group, Steven Ivy, Heritage  
28 Capital Corporation, and others sued herein as Does 11 - 17, the

1 exact names of which are presently unascertained by plaintiff who  
2 will ask leave of court to amend this complaint to set forth same  
3 when fully ascertained.

4 (i) PCGS has stated, and plaintiff believes that  
5 PCGS maintains lists, by coin number, of the submitter of each coin  
6 graded by PCGS and that PCGS knows specifically which coin was  
7 submitted by which PCGS member for grading and that defendants  
8 David Hall and PCGS has information superior to that of the  
9 plaintiff herein as to which specific insider submitted for grading  
10 each of the specific coins identified in paragraph 45. a. - m.  
11 hereof.

12 49. Plaintiff did acquire various such coins and did invest  
13 thousands of dollars, the exact amount of which is presently  
14 unknown but exceeds \$10,000.00. Plaintiff will ask leave of court  
15 to amend this complaint to state said amount, according to proof at  
16 the time of trial.

17 50. Plaintiff is informed and believes that as a result of  
18 the violations of 18 U.S.C. §1341, and §1343 sum not yet  
19 ascertained but exceeds \$10,000.00. Plaintiff will ask leave of  
20 court to amend this complaint when same are ascertained, or  
21 according to proof at time of trial.

22 51. Plaintiff will request that damages, when ascertained,  
23 be trebled as provided in 18 U.S.C. §1964, and that attorney fees  
24 be awarded.

25 FACTUAL ALLEGATIONS

26 PENDENT STATE CLAIMS

27 52. On or about July 14, 1988, and to and including July 20,  
28 1988, plaintiff delivered to Doe 2, acting for defendants Ivy,

1 Halperin, Hall and Heritage, gold and silver coins for an agreed  
2 upon sum of \$807,378. Said coins are itemized on Exhibit "A"  
3 hereof, and incorporated hereat by this reference.

4 53. Neither whole nor any part of said sum has been paid,  
5 and there is presently due, owing and payable from defendants Ivy,  
6 Halperin, Hall and Heritage to plaintiff the sum of \$807,378.

7 54. PCGS is a business enterprise presently operated through  
8 another entity, sued herein as Doe 1. Plaintiff is informed and  
9 believes that Doe 1 is owned by defendants Hall, Ivy and Halperin.  
10 The business of PCGS consists of the grading, by appraisal, of  
11 valuable coins, sealing the coin so appraised in an impenetrable  
12 plastic casing with its appraisal and guaranteeing the value of the  
13 coin to be as graded based upon the then current market value for  
14 such coins of said grade.

15 55. Plaintiff is informed and believes, and thereon alleges  
16 that each and all of the defendants herein, in doing the act or  
17 actions herein alleged, were acting in consort with, and as the  
18 agents, employees, or representatives of each and all of their co-  
19 defendants.

20 56. Plaintiff is informed and believes, and thereon alleges  
21 that Heritage was and is a mere sham and shell organized and  
22 operated as the alter ego of the individual defendants, Steven Ivy  
23 and James Halperin, for their personal benefit and advantage in  
24 that the individual defendants have at all times herein mentioned  
25 exercised total dominion and control over the corporate defendant  
26 and that the individual defendants were and are the only  
27 significant shareholders of the corporation. Plaintiff is informed  
28 and believes, and hereon alleges, that the individual defendants,

1 Steven Ivy and James Halperin, and the corporate defendant,  
2 Heritage have so intermingled their personal and financial affairs  
3 that the corporate defendant was and is the alter ego of the said  
4 individual defendants such that an injustice will result if the  
5 theoretical entity of the corporate defendant is not disregarded  
6 and the individual defendant's held liable for the indebtedness of  
7 the corporate defendant.

8 57. Plaintiff is further informed and believes, and thereon  
9 alleges that PCGS was and is a mere sham and shell organized and  
10 operated as the alter ego of the individual defendants David Hall,  
11 Steven Ivy and James Halperin for their personal benefit and  
12 advantage in that said individual defendants have at all times  
13 herein mentioned exercised total dominion and control over PCGS.  
14 Plaintiff is further informed and believes, and thereon alleges  
15 that the individual defendants Hall, Ivy and Halperin and the  
16 corporate defendant PCGS have so intermingled their personal and  
17 financial affairs that the corporate defendant PCGS was and is the  
18 alter ego of defendant David Hall and that an injustice will result  
19 of the theoretical entity of the corporate defendant is not  
20 disregarded and the individual defendant David Hall be held liable  
21 for the indebtedness of the corporate defendant.

22  
23 COUNT THREE

24 (Against Defendants Heritage, Steven Ivy And  
25 James Halperin For Goods Sold And Delivered)

26 58. Plaintiff hereby incorporates and realleges Paragraphs 1  
27 through 57 hereat as though fully set forth at this place.

28 59. Within two years, on or about July 14 through July 20,

1 1988, defendant Heritage as the alter ego of defendants Steven Ivy  
2 and James Halperin, became indebted to plaintiff for goods sold and  
3 delivered by plaintiff to defendants Heritage, Ivy and Halperin,  
4 who then and there agreed to pay the sum of \$807,378 for said  
5 goods.

6 60. Neither the whole nor any part of the above sum has been  
7 paid although demand therefore has been made and there is now due,  
8 owing and unpaid from defendants Heritage, Ivy and Halperin to  
9 plaintiff the sum of \$807,378, together with interest thereon at  
10 the rate of ten percent (10%) per annum from July 20, 1988.

11  
12 COUNT FOUR

13 (For Breach Of Oral Contract Against  
14 Defendants Heritage, Ivy and Halperin)

15 61. Plaintiff hereby incorporates and realleges Paragraphs 1  
16 through 60 hereat as though fully set forth at this place.

17 62. On or about July 20, 1988, plaintiff and defendants  
18 Heritage, Ivy and Halperin entered into an oral agreement whereby  
19 plaintiff agreed to sell and deliver antique gold and silver coins  
20 having an agreed value of \$807,378, and defendants Heritage, Ivy  
21 and Halperin agreed to pay the specific sum of \$807,378 for said  
22 coins.

23 63. Plaintiff has performed all conditions, covenants and  
24 promises required by him on his part to be performed in accordance  
25 with the terms and conditions of the contract and said coins were  
26 delivered to defendants Heritage, Ivy and Halperin by plaintiff  
27 through plaintiff's agent on or about July 20, 1988.

28 64. On or about July 20, 1988, defendants breached the oral

1 agreement by failing and refusing to pay the sum agreed upon,  
2 notwithstanding that defendants Heritage, Ivy and Halperin took  
3 possession of said gold and silver coins, and have acknowledged  
4 receipt thereof and now refuse to either forthwith pay the said  
5 agreed sum of \$807,378 or to return the coins, notwithstanding  
6 demand therefore having been made.

7         65. As a direct and proximate result of the breach of  
8 contract by defendants Heritage, Ivy and Halperin, plaintiff has  
9 been damaged in the sum of \$807,378 plus interest thereon at the  
10 legal rate of ten percent (10%) per annum from July 20, 1988 until  
11 said sum is paid.

12  
13  
14  
15  
16  
17                     COUNT FIVE

18             (For Slander Per Se Against Defendants Professional  
19 Coin Grading Service, David Hall, Steven Ivy, James  
20 Halperin, Heritage Capital Corporation,

21                     And Does 1 Through 10, Inclusive)

22         66. Plaintiff hereby incorporates and realleges Paragraphs 1  
23 through 65 hereat as though fully set forth at this place.

24         67. Plaintiff is informed and believes, and thereon alleges  
25 that commencing on or about July 14, 1988 defendants David Hall,  
26 acting individually and for and on behalf of defendant PCGS and  
27 defendants Steven Ivy and James Halperin, acting individually and  
28 for and on behalf of defendant Heritage, and defendants Does 1

1 through 10, inclusive, published both by speaking and upon  
2 information and belief, in written form, the following words, of  
3 and concerning the plaintiff:

4 (a) Defendant Hall published allegations that PCGS's  
5 security system had been breached and that between two hundred and  
6 five hundred coins were allegedly being fraudulently sold as having  
7 been analyzed, graded and sealed by PCGS but which coins, in fact,  
8 were not analyzed, graded and sealed by PCGS.

9 (b) Defendant Hall, together with defendants Ivy and  
10 Halperin, and defendants Does 1 through 10 orally published an  
11 accusation associating plaintiff with said fraudulent coins  
12 essentially telling people with whom plaintiff did business, and  
13 who then owed plaintiff money, in connection with coins sold by  
14 plaintiff that such persons should not do business with plaintiff.  
15 Said named defendants further stated that plaintiff has been  
16 selling fraudulent coins.

17 (c) Defendant Hall, individually, and defendants Ivy  
18 and Halperin, did further orally publish statements accusing  
19 plaintiff of being under investigation by the FBI for criminal  
20 and/or fraudulent conduct relating to the sale of the fraudulent  
21 coins. Said defendants, along with defendants Does 1 through 10,  
22 further advised people with whom plaintiff was engaged in a  
23 business relationship not to pay plaintiff for any coins he has  
24 sold, not to do business with plaintiff because he was engaged in  
25 fraudulent coin sales and further stated that they were going to  
26 "close him down".

27 68. These words were heard by Joel Rettew, Charles  
28 Anastasia, Steven Ivy, James Halperin, John Highfill, Heritage

1 Capital Corporation and other persons not presently known to  
2 plaintiff.

3 69. These words were slanderous per se because they attack  
4 plaintiff in his reputation in business and impugn to plaintiff  
5 criminal acts and fraudulent acts.

6 70. The words uttered were false because plaintiff has not  
7 altered any of the PCGS packaging, nor has plaintiff ever knowingly  
8 sold any coin in an altered PCGS package. Moreover, PCGS has  
9 placed in the marketplace packaged coins with gross errors in  
10 grading which plaintiff is informed and believes may constitute  
11 some of the allegedly fraudulent coins to which defendant Hall  
12 refereed as set forth in allegations set forth in Paragraph 53,  
13 above.

14 71. The words carry a defamatory meaning because, the market  
15 value for any given coin is effected by the grading of said coin by  
16 PCGS. If a PCGS graded coin has been altered or substituted, the  
17 buyer will receive a coin having a value other than as represented  
18 by the grade of the coin set forth on the tag accompanying the coin  
19 in the sealed plastic container. If a coin merchant is accused of  
20 selling fraudulently grade or pacheyed coins, no one hearing and  
21 believing said accusation will do business with such person since  
22 they cannot rely upon the value of the coins being sold by such  
23 person.

24 72. The words were understood by those who read and/or heard  
25 them in a way that defamed plaintiff because, a fraudulent coin  
26 means that either the integrity of the plastic packaging has been  
27 damaged and the coin has been replaced or substituted for another  
28 coin, or the integrity of the plastic packaging has been

1 compromised and the paper tag showing the grading of the coin has  
2 been altered or substituted In either way, the purchaser of the  
3 said coin is not getting that which is being represented as a PCGS  
4 specifically graded coin.

5 73. As a result of the above described words, plaintiff has  
6 suffered general damages to his reputation in the sum of  
7 \$10,000,000.

8 74. As a further proximate result of the above described  
9 words, plaintiff has suffered the following special damages:

10 (a) Defendants Heritage, Ivy and Halperin have failed  
11 and refused, and continue to fail and refuse to pay the sum of  
12 \$807,374 due and owing for coins sold to said defendants by  
13 plaintiff;

14 (b) Defendants Heritage, Ivy and Halperin have failed  
15 and refused, and continue to fail and refuse to pay the sum of  
16 \$84,310 due and owing for coins sold to said defendants by  
17 plaintiff;

18 (c) Plaintiff has been unable to engage in plaintiff's  
19 business, trade and profession, because no one in the coin business  
20 will buy from or sell to plaintiff. Plaintiff is informed and  
21 believes, and thereon alleges that the total cessation of his  
22 business from and after July 20, 1988 is directly attributable to  
23 the allegations made against him as hereinabove set forth and his  
24 entire business has ceased, all to his injury in the sum of  
25 \$10,000,000.

26 75. The above described words were spoken by defendant Hall  
27 and with malice, oppression and a reckless disregard for  
28 plaintiff's rights. Plaintiff is informed and believes, and

1 thereon alleges, that he has been made a scapegoat by defendants in  
2 order to establish a focus of blame and to shift the attention from  
3 PCGS' internal errors which, if known to the community of coin  
4 traders, would adversely affect the marketplace since it would  
5 become difficult to rely upon the grading of PCGS to determine the  
6 value of a coin. By reason of such intentional, malicious and  
7 oppressive acts of the defendants and each of them, plaintiff is  
8 entitled to an award of exemplary and punitive damages in the  
9 amount of \$10,000,000.

10  
11 COUNT SIX

12 (For Intentional Infliction Of Emotional Distress  
13 Against Defendants Hall, PCGS, Ivy, Halperin,  
14 Heritage, And Does 1 Through 10, Inclusive)

15 76. Plaintiff hereby incorporates and realleges Paragraphs 1  
16 through 75 hereat as though fully set forth at this place.

17 77. Plaintiff is informed and believes and thereon alleges  
18 that in doing the acts hereinabove alleged, defendants intended to  
19 cause plaintiff great emotional distress. As a proximate result of  
20 the acts of defendants, and each of them as hereinabove described,  
21 plaintiff has sustained and continues to sustain emotional distress  
22 and mental suffering, not limited to sleepless nights, anxiety,  
23 nightmares and eating disorders, all to plaintiff's general damages  
24 in an amount not yet ascertained. Plaintiff will seek leave of  
25 this court to amend this complaint when same are ascertained.

26 78. As a further direct and proximate result of said  
27 conduct, plaintiff will incur medical and incidental expenses  
28 relating to the distress, the exact amount not yet ascertained and

1 plaintiff will seek leave of this court to amend this complaint  
2 when same are ascertained.

3 79. By reason of the intentional acts of defendants,  
4 defendants, and each of them, acting with malice and oppression,  
5 designed to cause plaintiff mental and emotional distress.  
6 Defendants, and each of them, are liable to plaintiff for exemplary  
7 and punitive damages in the sum of \$10,000,000.  
8

9 COUNT SEVEN

10 (For Negligent Infliction Of Emotional Distress)

11 80. Plaintiff hereby incorporates and realleges Paragraphs 1  
12 through 79 hereat as though fully set forth at this place.

13 81. Plaintiff is informed and believes, and thereon alleges  
14 that each and all of the representations hereinabove set forth were  
15 made by defendants, and each of them, without any justification or  
16 fact, or without any knowledge, information or evidence to support  
17 any of the defendants' claims as alleged in Paragraph 21, herein.  
18 As a direct and proximate result of the recklessness of the  
19 defendants, and each of them, in making the allegations as set  
20 forth in Paragraph 53, 53(a), 53(b), 53(c) and in making said  
21 allegations without any factual basis therefore, defendants and  
22 each of them were grossly negligent.

23 82. As a direct and proximate result of the recklessness of  
24 the conduct of defendants and each of them plaintiff has sustained  
25 damage to his reputation in the business community, has sustained  
26 monetary damages in a sum in excess of approximately \$900,000 and  
27 has sustained severe anguish and anxiety, mental and emotional  
28 distress, discomfort, pain and suffering, all to his general

1 damages in a sum to be ascertained at the time of trial. Plaintiff  
2 will ask leave of the court to amend this complaint to set forth  
3 the same when ascertained.

4 83. As a direct and proximate result of the actions of the  
5 defendants, and each of them, plaintiff is informed and thereon  
6 alleges that he will sustain medical and incidental expenses  
7 relating to and in connection with the emotional distress herein  
8 alleged, in an amount not yet fully ascertained, and plaintiff will  
9 ask leave of the court to amend this complaint to set forth the  
10 amount of special and incidental damages sustained, including but  
11 not limited to those for medical practitioners when same are  
12 ascertained.

13  
14 COUNT EIGHT

15 (For Conversion Against Defendants

16 Ivy, Halperin, Heritage, Hall And PCGS)

17 84. Plaintiff hereby incorporates and realleges Paragraphs 1  
18 through 83 hereat as though fully set forth at this place.

19 85. Plaintiff is informed and believes, and thereon alleges  
20 that on or about July 22, 1988, defendants Ivy and Halperin, for  
21 and on behalf of defendant Heritage did convey, transfer and  
22 deliver to David Hall and PCGS each and every item of personal  
23 property described upon Exhibit "A" hereof, attached hereto and  
24 incorporated hereat by this reference having a value of \$807,378  
25 and other coins referred to in Paragraph hereof having a value of  
26 \$84,310.

27 86. Plaintiff alleges that said items, having not been paid  
28 for, are the personal property of plaintiff.

87. Demand for the immediate return of plaintiff's property has been made upon defendants Hall, PCGS, Ivy, Halperin and Heritage, and said defendants, each and all, have refused to return said items, but have converted same to their own use and benefit, in derogation of plaintiff's rights thereto.

88. As a direct and proximate result of the conversion of said items of personal property, plaintiff has been deprived of the use and benefit of same, and defendants, and each of them, have been unjustly enriched by the use and benefit of same, all to plaintiff's damages in the sum of \$891,688.

COUNT NINE

(For Claim And Delivery Against Heritage, Ivy,  
Halperin, Hall And PCGS)

89. Plaintiff hereby incorporates and realleges Paragraphs 1 through 88 hereat as though fully set forth at this place.

90. Plaintiff is informed and believes, and thereon alleges that, in the absence of payment for personal property identified and listed on Exhibit "A" hereof, having a value of \$807,378 and as described in Paragraph 18 j hereof and incorporated hereat by this reference, having a value of \$84,310, plaintiff is the true and only owner of said items.

91. Plaintiff is informed and believes, and thereon alleges, that defendants PCGS, Hall, Heritage, Ivy and/or Halperin, and Does 11 through 20, inclusive, claim an interest in and title to said items of personal property adverse to the claims of plaintiff.

92. Plaintiff has demanded return of the personal property from defendants named herein, and defendants have failed and

1 refused, and continue to fail and refuse to deliver to plaintiff  
2 said items.

3 COUNT TEN

4 (For Goods Sold And Delivered)

5 93. Plaintiff hereby incorporates and realleges Paragraphs 1  
6 through 92 hereat as though fully set forth at this place.

7 94. Within two years and before July 14, 1988, defendant  
8 Heritage as the alter ego of defendants Steven Ivy and James  
9 Halperin, became indebted to plaintiff for goods sold and delivered  
10 by plaintiff to defendants Heritage, Ivy and Halperin, who then and  
11 there agreed to pay the sum of \$84,310 for said goods.

12 95. Neither the whole nor any part of the above sum has been  
13 paid although demand therefore has been made and there is now due,  
14 owing and unpaid from defendants Heritage, Ivy and Halperin to  
15 plaintiff the sum of \$84,310, together with interest thereon at the  
16 rate of ten percent (10%) per annum from July 1, 1988.

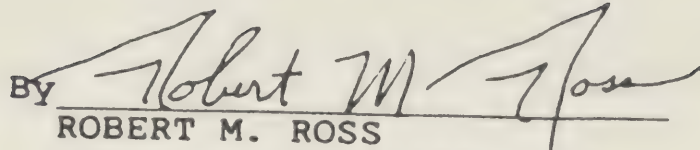
17  
18 WHEREFORE, plaintiff prays for judgment against defendants,  
19 and each of them, as follows:

- 20 1. For general damages according to proof;
- 21 2. For special damages according to proof;
- 22 3. For punitive damages according to proof;
- 23 4. For the immediate return of plaintiff's personal  
24 property;
- 25 5. For attorney's fees incurred in connection with the  
26 recovery of said personal property;
- 27 6. For costs of suit incurred herein; and
- 28 7. For such other and further relief as the court may deem

1 just and proper.

2  
3 DATED: January 5, 1989

KLASS, HELMAN & ROSS

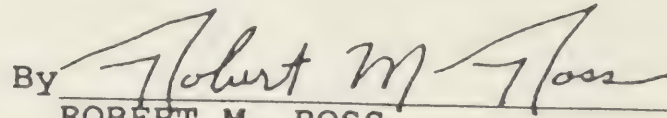
4  
5 BY   
6 ROBERT M. ROSS  
7 Attorneys for Plaintiff  
8 Gary Fernandez

9 DEMAND FOR JURY TRIAL

10  
11 Plaintiff hereby demands a trial by jury.

12 DATED: January 5, 1989

KLASS, HELMAN & ROSS

13  
14 BY   
15 ROBERT M. ROSS  
16 Attorneys for Plaintiff  
17 Gary Fernandez

18 FERNANDE.9

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES — GENERAL

SA88-556-JSL

Jan. 23, 1989

Case No. CV  
Cary Fernandez -v- David Hall, etc.

Date \_\_\_\_\_

Title \_\_\_\_\_

DOCKET ENTRY

PRESENT:

HON. J. SPENCER LETTS, JUDGE

Nancy J. Webb  
Deputy Clerk

Terry Kramer  
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

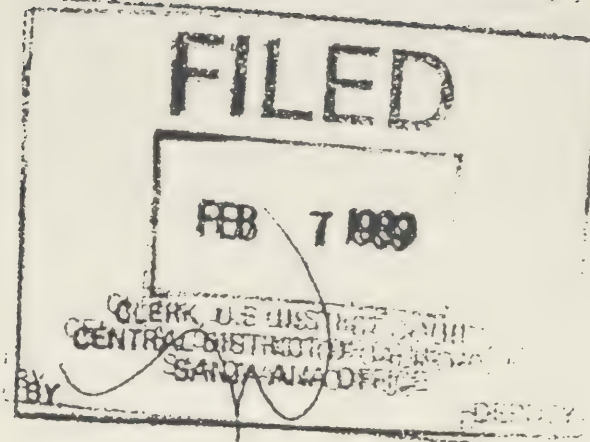
Robert Ross

PROCEEDINGS: HEARING: Defendants Hall & Professional Coin Grading's  
motion to dismiss

Counsel make statements to the Court.

The Court takes the matter under submission and will rule  
within a week.

Initials of Deputy Clerk \_\_\_\_\_



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

GARY FERNANDEZ,

Plaintiff,

v.

DAVID HALL, PROFESSIONAL COIN  
GRADING SERVICE, a California  
corporation; and DOES 1  
through 20, inclusive,

Defendants.

Case No. CV 88-556 JSL

ORDER

Pursuant to F.R.Civ.P 42(b), and to the discretion vested in this court thereunder, this court by its own motion orders that those claims brought against defendants in the instant action pursuant to 18 U.S.C. §§ 1961-68 (the RICO Act) are hereby stayed, and that a separate trial is forthwith ordered for purposes of adjudicating the remaining and pendent state law claims averred by plaintiff, which claims may or may not constitute predicate acts under 18 U.S.C. § 1961(1), and all counter-claims filed by defendants against plaintiff in the above-captioned matter.

The court notes its concern that the entanglement of the relevant issues in the RICO and non-RICO claims will

*(Handwritten signature)*

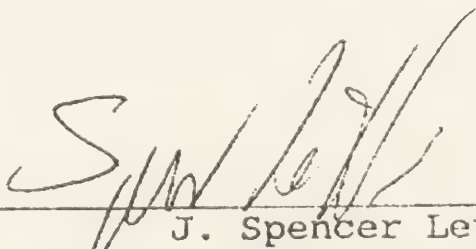
1 render the task of the fact-finder, which by plaintiff's  
2 demand will be a jury, unduly confusing and cumbersome. In  
3 turn, the court finds that separating the RICO claims from the  
4 state law claims and the counterclaims filed by defendants for  
5 purposes of trial is in the interest of efficient judicial  
6 administration, will promote the expeditious and economic  
7 resolution of the above-captioned matter, and will further the  
8 convenience of and thereby not prejudice the parties.

9 In order to insure that the pendent state claims  
10 and defendants' counter-claims are tried expeditiously, and  
11 pursuant to the discretion vested in this court by F.R.Civ.P.  
12 16, this court also orders that the pre-trial conference in  
13 this case is hereby waived, and that the matter will be set  
14 for trial at the earliest date otherwise permitted by the  
15 Local Rules and the Federal Rules of Civil Procedure. For  
16 counsel's reference, Attachment A to this Order sets forth the  
17 schedule this court expects that parties will follow with  
18 respect to the separated trial.

19 The court also orders that the defendants motions  
20 to dismiss the complaint are hereby denied without prejudice.  
21 Defendants may renew these motions at the conclusion of the  
22 separate trial on the pendent state law claims.

23  
24 IT IS SO ORDERED.

25  
26 DATED: Feb. 7 , 1989

27  
28   
\_\_\_\_\_  
J. Spencer Letts  
United States District Judge

ATTACHMENT A

Answer to Second Amended Complaint  
and Defendant's Counter-Claims Due:

Within 20 days of  
this Order

Early Meeting of Counsel:

Within 20 days of Answers

Early Meeting Report Due:

Within 14 days of Early Meeting  
of Counsel

Pre-Trial Meeting Between Counsel: Day After Early Meeting  
Report Due

Submit Local Rule 9.11.2 Statement:

14 Days Prior to  
Trial

Submit Jury Instructions:

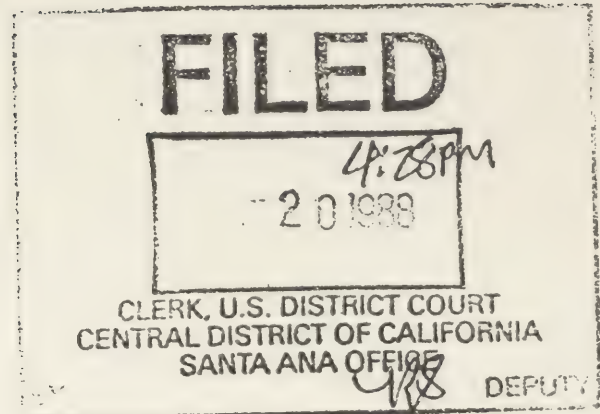
7 days prior to Trial Date

Submit Trial Brief/Exhibit List:

5 days prior to Trial  
Date

Trial Date: 30 days after Pre-Trial Meeting of Counsel

1 LATHAM & WATKINS  
2 Robert E. Currie  
3 Peter J. Wilson  
4 650 Town Center Drive  
5 Twentieth Floor  
6 Costa Mesa, California 92626-1918  
7  
8 (714) 540-1235  
9  
10 Attorneys for Defendants  
11 David Hall and Professional  
12 Coin Grading Service  
13  
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28



8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

11 GARY FERNANDEZ,  
12 Plaintiff,

13 vs.

14 DAVID HALL; PROFESSIONAL COIN  
15 GRADING SERVICE, a California  
16 corporation; STEVEN IVY; JAMES  
17 HALPERIN; HERITAGE CAPITAL  
18 CORPORATION, a Texas  
19 corporation; and DOES 1 through  
20 20, inclusive,  
21 Defendants.

) Case No. SA CV88-556 JSL  
) (RWRx)

) JOINT MEMORANDUM OF  
) DEFENDANTS DAVID HALL AND  
) PROFESSIONAL COIN GRADING  
) SERVICE IN SUPPORT OF MOTION  
) TO DISMISS COMPLAINT; MOTION  
) TO STRIKE AND FOR RULE 11  
) SANCTIONS

) Date : November 14, 1988  
) Time : 1:00 p.m.  
) Place: Courtroom 2

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<u>Religious Technology Center v. Wollersheim,</u> 796 F.2d 1076, 1088-1089 (9th Cir. 1986) . . . . .	16
<u>Republic of the Philippines v. Marcos,</u> 818 F.2d 1473, 1479 (9th Cir. 1987) . . . . .	16
<u>Schnitzer v. Oppenheimer &amp; Co.,</u> 633 F. Supp. 92, 97 (D. Ore. 1985) . . . . .	8, 11
<u>Schreiber Distributing v. Serv-Well Furniture Co.,</u> 806 F.2d 1393, 1400-1 (9th Cir. 1986) . . . . .	9, 12
<u>Sedima, S.P.R.L. v. Imrex Co.,</u> 473 U.S. 479 (1985) . . . . .	11, 13, 14
<u>Semegen v. Weidner,</u> 780 F.2d 727 (9th Cir., 1985) . . . . .	9
<u>Stern v. Leucadia Nat. Corp.,</u> 844 F.2d 997, 1003 (2d Cir. 1988) . . . . .	10

1 Sun Sav. and Loan Ass'n v. Dierdorff,  
2 825 F.2d 187, 192 (9th Cir. 1987) . . . . . 12  
3 The United Energy Owners Com., Inc. v.  
4 U.S. Mgmt. Systems, Inc., 837 F.2d 356,  
5 361 (9th Cir. 1988) . . . . . 12  
6 Unioil, Inc. v. E. F. Hutton & Co.,  
7 809 F.2d 548, 559 (9th Cir.) . . . . . 19  
8 United Mineworkers v. Gibbs,  
9 383 U.S. 715, 726-27 (1966) . . . . . 15  
10 Windswept Corp. v. Fisher,  
11 683 F. Supp. 233, 237 (W.D. Wash. 1988) . . . . . 12  
12 Zuinga v. United Can Co.,  
13 812 F.2d 443, 452 (9th Cir. 1987) . . . . . 18

11 OTHER AUTHORITIES

12 Racketeer Influenced and Corrupt Organizations Act:

13 18 U.S.C. §§ 471, 472 and 473 . . . . . 4, 6, 10  
14 18 U.S.C. §§ 1961-1968 . . . . . 2, 4, 5, 7, 11, 15  
15 18 U.S.C. Section 1951 . . . . . 4, 7, 10  
16 18 U.S.C. Section 1952 . . . . . 6  
17 18 U.S.C. Sections 2314 and 2315 . . . . . 6

18 Federal Rules of Civil Procedure:

19 Rule 9(b) . . . . . 4, 7-10, 17  
20 Rule 11 . . . . . 17, 18  
21 Rule 12(b)(6) . . . . . 2  
22 Rule 12(f) . . . . . 16

24 2A J.W. Moore and J. Lucas,  
25 Moore's Federal Practice,  
26 § 12.21, at 12-172 (2nd Ed. 1987) . . . . . 16

I

INTRODUCTION

On September 26, 1988 plaintiff filed a Complaint in this Court alleging, in Count One, violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968 ("RICO"). Counts Two through Nine assert pendent state claims, including claims for goods sold and delivered, breach of oral contract and claim and delivery.

This memorandum and the accompanying Request for Judicial Notice are submitted by defendants David Hall ("Hall") and Professional Coin Grading Service ("PCGS") in support of their motion under Federal Rule 12(b)(6) to dismiss Count One of the Complaint for failure to state a claim upon which relief can be granted. Once Count One is dismissed, the pendent state claims should also be dismissed, without prejudice to plaintiff's right to institute action in state court. In the event that Count One is not dismissed, defendants Hall and PCGS move to strike paragraph 27 thereof seeking equitable relief.

Plaintiff, a rare coin dealer, has turned what was and is essentially a collection action, arising out of the sale of rare coins to defendant Heritage Capital Corporation ("Heritage"), into an alleged violation of the RICO Act, with predictable allegations of racketeering and fraud. Because this is, in fact, a collection action, plaintiff is able to plead only the allegations concerning goods sold and delivered with any particularity. All other allegations are vague, conclusionary, inadequate and unfounded.

1           On August 4, 1988, plaintiff filed a complaint in  
2 Orange County Superior Court against the present defendants,  
3 arising out of the same general circumstances as are alleged in  
4 the pendent state claims, and claiming essentially the same  
5 relief as in the pendent state claims. Before service of the  
6 complaint on Hall and PCGS, plaintiff voluntarily dismissed his  
7 complaint without prejudice, and instituted this action in this  
8 Court. The earlier complaint remains significant, however,  
9 because it confirms the proper characterization of this case as  
10 a collection action, and because it reveals the extent to which  
11 plaintiff has been prepared to elaborate, on information and  
12 belief, on the allegations in that case in an attempt to force  
13 his claims within the RICO statute. (The state court complaint  
14 is attached to the Request for Judicial Notice which is filed  
15 concurrently herewith.)

16           Plaintiff's hidden agenda in filing a RICO claim  
17 emerges from the matters alleged in his slander claim against  
18 all defendants (Count Five of the pendent state claims, and  
19 Third Cause of Action in his dismissed state court complaint).  
20 Fearing himself implicated in a fraudulent scheme involving  
21 tampering with PCGS coin holders, substitution of coins and  
22 altering of coin grades, and under investigation by federal  
23 authorities in connection therewith, plaintiff appears to have  
24 decided that the best form of defense is attack. This he has  
25 done without any regard for the prejudicial effect his unfounded  
26 and unsubstantiated allegations of fraud and racketeering will,  
27 and have, necessarily had on defendants.  
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II

SUMMARY OF ARGUMENT

Plaintiff's RICO allegations appear to be based upon five, perhaps six, alleged "racketeering acts." (Because of a complete lack of particularity, it is not possible to determine whether the violations of 18 U.S.C. §§ 471, 472 and 473 alleged in paragraph 17(a) of the Complaint are the same violations alleged in paragraph 23(a) thereof). The only alleged act of racketeering stated with any particularity relates to plaintiff's "goods sold and delivered" allegations. Complaint, ¶ 17(c). That alleged racketeering act, however ("theft by fraud"), is not one of the criminal activities enumerated in 18 U.S.C. § 1961(1), (nor does it constitute a violation of 18 U.S.C. Section 1951, as alleged in paragraph 17(c) of the Complaint, which deals with "interference with commerce by threats or violence"). All other alleged racketeering acts are either not "racketeering acts" as defined by § 1961(1), or are devoid of the particularity required by Rule 9(b) of the Federal Rules of Civil Procedure ("Rule 9(b)") and by the pleading standards applicable to RICO claims generally.

The alleged racketeering acts, even if adequately pleaded, do not establish a pattern of racketeering activity, because they relate to a single alleged fraud and there was and is no threat of continuing activity.

If Count One is not dismissed, defendants Hall and PCGS move to strike ¶ 27 of the Complaint, on the grounds that private equitable relief is not available to a private plaintiff in a RICO claim.

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III

THE RICO CLAIM IS DEFICIENT AS A MATTER  
OF LAW AND SHOULD BE DISMISSED

Plaintiff's first claim for relief alleges violations of the RICO act. It can be surmised, although no appropriate allegation is made in the Complaint, that plaintiff's claim is brought under Sections 1962(b) and/or (c) and/or (d) of that act. Each of these RICO subsections requires that the defendants engage in a "pattern of racketeering activity." Such a pattern is defined in the statute as requiring at least two "acts of racketeering activity." The acts ("predicate acts") constituting "racketeering activity" are those enumerated in Section 1961(1). At least two predicate acts constituting crimes of the type enumerated in § 1961(1) must be alleged against each defendant named in a RICO count in order to even suggest the existence of a pattern of racketeering activity under RICO. Blake v. Dierdorff, 88 Daily Journal D.A.R. 11603 (9th Cir., Sept. 8, 1988). While plaintiff's Complaint at pages 4-9 contains a lengthy recitation of certain alleged conduct, most of the alleged conduct either does not constitute a predicate act at all 1/, or is not directed against certain defendants. The pattern requirement must be satisfied separately as to each defendant and mere conclusionary allegations of conspiracy are insufficient. Blake v. Dierdorff, supra, at 11606.

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1. For example, "theft by fraud" alleged in ¶¶ 17(c), 20, and 24 of the Complaint.

1 In sum and substance, the allegations against  
2 defendants Hall and PCGS upon which the RICO claim is founded  
3 are the following:

4 (a) An allegation of a conspiracy between Hall,  
5 defendant Steven Ivy ("Ivy") and defendant James Halperin  
6 ("Halperin"). Complaint, ¶ 16.

7 (b) An allegation that Hall "violated 18 U.S.C.  
8 Sections 471, 472 and 473 relating to counterfeiting."  
9 Complaint, ¶ 17(a). (See, also, ¶ 23(a).)

10 (c) An allegation that Hall "act[ed] in association  
11 and conspiracy" with Ivy and Halperin with "inten[t] to acquire,  
12 without payment therefore, all of plaintiff's coin inventory for  
13 the purpose of putting plaintiff out of business, in violation  
14 of 18 U.S.C. Section 1952." Complaint, ¶ 17(d)(i).

15 (d) An allegation that "after taking possession of  
16 plaintiff's coins, defendants Hall, Ivy and Halperin violated  
17 18 U.S.C. Sections 2314 and 2315 by transporting said stolen  
18 property from Ohio to the State of New York." Complaint,  
19 ¶ 17(e). (See, also, ¶ 22.)

20 (e) An allegation that "for the purpose of injuring  
21 plaintiff and his business," Hall and/or PCGS (from the  
22 Complaint it is not clear which) "publish[ed] and advise[d]  
23 through interstate wire media . . . that plaintiff is a  
24 counterfeiter . . . ." Complaint, ¶ 21.

25 (f) An allegation that Hall "engag[ed] in acts of  
26 mail and wire fraud for and in connection with the seeking of an  
27 appraisal by PCGS's competitor of said counterfeit currency or  
28

1 coins, in violation of 18 U.S.C. Section 1951." Complaint,  
2 ¶ 23(b).

3 (g) An allegation that PCGS is liable for Hall's  
4 actions on the principle of respondeat superior. Complaint,  
5 ¶ 26.

6 As will be demonstrated hereunder, the above  
7 allegations either are not allegations of a predicate act, or  
8 are not stated with the particularity required by Rule 9(b) or  
9 by the standards applicable to RICO claims generally. The  
10 allegations that remain are insufficient to establish a pattern  
11 of racketeering activity as defined in 18 U.S.C. §1961(5).

12 A. Plaintiff's RICO claim fails to allege facts,  
13 including fraud, with the requisite degree of  
14 specificity.

15 Of the allegations relied upon by plaintiff to  
16 establish racketeering activity (identified in subparagraphs  
17 (a)-(g) above), only three ((b) counterfeiting, (d) interstate  
18 transportation of stolen property and (f) mail and wire fraud)  
19 can, if adequately stated, be considered to determine whether a  
20 "pattern of racketeering activity" has been sufficiently  
21 alleged. None of the other conduct alleged constitutes  
22 "racketeering activity" as defined in 18 U.S.C. §1961(1).

23 The allegations that do carry some hint of  
24 "racketeering activity" (counterfeiting, interstate  
25 transportation of stolen property and mail and wire fraud) are  
26 not stated with the particularity required. Counterfeiting,  
27 mail fraud and wire fraud necessarily involve allegations of  
28 fraud. Rule 9(b) requires that, in a pleading alleging fraud,

1 ". . . the circumstances constituting fraud . . . shall be  
2 stated with particularity." The purpose of Rule 9(b) is to  
3 protect defendants from unfounded charges of wrongdoing which  
4 tend to injure their reputation and goodwill. This policy  
5 reason, plus the additional damage that is done to one's career  
6 by being branded a "racketeer" in a RICO claim, has led courts  
7 rigorously to apply Rule 9(b) to fraud claims in the RICO  
8 context, and to apply a more rigorous pleading standard to RICO  
9 claims generally. As stated by the Court in Schnitzer v.  
10 Oppenheimer & Co., 633 F. Supp. 92, 97 (D. Ore. 1985):

11 ". . . I agree that a RICO plaintiff must  
12 meet a higher pleading standard than that  
13 imposed on an ordinary plaintiff. RICO's in  
14 terrorem effect is potent, in that a RICO  
15 defendant faces the unsavory label  
16 "racketeer" as well as the risk of treble  
17 damages. In many cases, the RICO defendant  
18 may be guilty of no more than negligence,  
19 yet his reputation for honesty is at great  
20 risk. Because a RICO claim threatens the  
21 same kind of harm to a professional  
22 reputation as a fraud claim, a RICO  
23 plaintiff should plead facts constituting  
24 the predicate offenses with the  
25 particularity required by Rule 9(b). This  
26 requirement is especially appropriate where,  
27 as here, the predicate offenses alleged in  
28 the Complaint were acts of fraud."

1           The same is true in this case, and the Court should  
2 not permit business reputations to be ruined by sweeping  
3 allegations of fraud and other criminal conduct which are not  
4 stated with particularity.

5           As interpreted by the Ninth Circuit, Rule 9(b) means  
6 that "the pleader must state the time, place and specific  
7 content of the false representations as well as the identities  
8 of the parties to the misrepresentation." Misc. Service Workers  
9 v. Philco-Ford Corp., 661 F.2d 776, 782 (9th Cir. 1981);  
10 Schreiber Distributing v. Serv-Well Furniture Co., 806 F.2d  
11 1393, 1400-1 (9th Cir. 1986). If plaintiffs fail to allege the  
12 "manner, content or medium of the alleged misrepresentations,"  
13 then the Complaint should be dismissed. Misc. Service Workers,  
14 supra, 661 F.2d at 782. Further, where, as here, there are  
15 fraud allegations against multiple defendants, the pleader must  
16 satisfy Rule 9(b) with respect to each defendant, and "blanket"  
17 allegations are insufficient. McFarland v. Memorex, 493 F.  
18 Supp. 631, 639 (N.D. Cal. 1980); Bruns v. Ledbetter, 583 F.  
19 Supp. 1050, 1051-2 (S.D. Cal. 1984).

20           Rule 9(b) requires a plaintiff to have a claim before  
21 filing the complaint, not to use the complaint as a pretext to  
22 try and discover a claim. See, Semegen v. Weidner, 780 F.2d 727  
23 (9th Cir., 1985) ("[Rule 9(b)] also prevents the filing of a  
24 complaint as a pretext for the discovery of unknown wrongs and  
25 protects potential defendants - especially professionals whose  
26 reputations in their fields of expertise are most sensitive to  
27 slander - from the harm that comes from being charged with the  
28 commission of fraudulent acts.")

1           The predicate acts alleged by plaintiff lack any  
2 particularity. It is alleged against Hall simply that "within  
3 ten years last past, plaintiff is informed and believes that  
4 defendant Hall violated 18 U.S.C. Sections 471, 472, and 473  
5 relating to counterfeiting." Complaint, ¶ 17(b).<sup>2/</sup> (Emphasis  
6 added.) There is not even lip-service adherence to Rule 9(b) in  
7 this allegation. The allegation concerning mail and wire fraud  
8 is equally bald, stating only, again on information and belief,  
9 that Hall engaged "in acts of mail and wire fraud for and in  
10 connection with the seeking of an appraisal by PCGS' competitor  
11 of said counterfeit currency or coins, in violation of 18 U.S.C.  
12 Section 1951." Complaint, ¶ 23(b). The allegation as stated is  
13 difficult to understand, in addition to being devoid of  
14 particularity.

15           It is generally not permissible to base fraud  
16 pleadings on information and belief. Stern v. Leucadia Nat.  
17 Corp., 844 F.2d 997, 1003 (2d Cir. 1988). In circumstances  
18 where fraud allegations may be pleaded on information and belief  
19 as to facts peculiarly within the opposing party's knowledge,  
20 "the allegations must be accompanied by a statement of facts  
21 upon which the belief is founded." Stern v. Leucadia Nat.  
22 Corp., supra, 844 F.2d at 1003. Accord, Bruns v. Ledbetter, 583  
23 F. Supp. 1050, 1052 (S.D. Cal. 1984).

24           In the present matter, all the "acts of racketeering"  
25 alleged by plaintiff in ¶¶ 17 and 23 of the Complaint, including

26  
27       2. In similar fashion, ¶ 23(a) of the Complaint simply  
28 alleges, on information and belief, that Hall "[put] into  
interstate commerce counterfeit currency or coins as  
prohibited by 18 U.S.C. Sections 471, 472 and 473."

1 those involving fraud, are alleged on information and belief.  
2 The allegations lack particularity both as to the alleged acts  
3 themselves and as to "any statement of the source of the  
4 information and the reasons upon which the belief is founded."  
5 Bruns v. Ledbetter, supra, 583 F. Supp. at 1052.

6 The last of the allegations faintly indicative of a  
7 predicate act is that relating to interstate transportation of  
8 stolen property. Complaint, ¶ 17(e). While providing more  
9 information than the allegations discussed earlier, the  
10 information is not sufficient to meet the particularity  
11 requirements for a RICO claim. Schnitzer v. Oppenheimer & Co.,  
12 supra, 633 F. Supp. at 97. In any event, just one act, even if  
13 sufficiently pleaded, cannot stand alone to found a RICO claim  
14 (18 U.S.C. § 1961(5)), and Count One should accordingly be  
15 dismissed.

16 B. Plaintiffs fail to allege a pattern of racketeering  
17 activity.

18 Even if it is found, contrary to defendants'  
19 contentions, that plaintiff has alleged two or more acts of  
20 racketeering with particularity, the acts alleged do not  
21 establish a "pattern" of racketeering activity, as is required  
22 by 18 U.S.C. § 1962. In Sedima, S.P.R.L. v. Imrex Co., 473 U.S.  
23 479 (1985), the Supreme Court, in dicta, stated that while two  
24 predicate acts are necessary to find a pattern, they may not be  
25 sufficient. Id. at 486, n. 14. The Court continued, "It is  
26 [the] factor of continuity plus relationship which combines to  
27 produce a pattern." Id. The Ninth Circuit has held the  
28 "continuity plus relationship" dictum to be a relevant

1 consideration in determining the existence of a pattern.  
2 Medallion Television Enterprises, Inc. v. SelectTV of  
3 California, Inc., 833 F.2d 1360, 1363 (9th Cir. 1987), citing  
4 Sun Sav. and Loan Ass'n v. Dierdorff, 825 F.2d 187, 192 (9th  
5 Cir. 1987). The presence or absence of continuity among the  
6 acts is often the determinative factor in finding the existence  
7 of a pattern. "Continuity will be found where the predicate  
8 acts are not isolated or sporadic, but rather pose a threat of  
9 continuing activity." Windswept Corp. v. Fisher, 683 F. Supp.  
10 233, 237 (W.D. Wash. 1988), citing The United Energy Owners  
11 Com., Inc. v. U.S. Mgmt. Systems, Inc., 837 F.2d 356, 361 (9th  
12 Cir. 1988).

13 In Windswept, the predicate acts consisted of  
14 misrepresentations in the course of plaintiff's purchase of  
15 defendant's corporation. The court found that since the sale  
16 had been closed and the potential for fraud had ended, there was  
17 no threat of continuing activity. The court cautioned, "If the  
18 fraud alleged here constitutes a pattern of racketeering  
19 activity, every securities case or fraud case could be pleaded  
20 as a RICO case." Windswept, 683 F. Supp. at 238.

21 The facts in Schreiber and Medallion are even more  
22 instructive for present purposes. In Schreiber, supra, 806 F.2d  
23 1393 (9th Cir. 1986) plaintiff's allegations concerned the  
24 fraudulent diversion of a single shipment of products. Having  
25 found that plaintiff had established a "showing of a  
26 relationship" and a "pattern" (consisting of at least two acts  
27 that are sufficiently related), (id. at 1399), the Court  
28 nevertheless held that:

1 "Schreiber's allegations did not establish,  
2 however, the threat of continuing activity.  
3 Sedima, 105 S. Ct. at 3285 n. 14. The  
4 complaint alleged the fraudulent diversion  
5 of a single shipment of Chambers' products  
6 in 1982. This appears to be an isolated  
7 event. See id. Because of the failure to  
8 allege facts establishing the threat of  
9 continuing activity, Schreiber's complaint  
10 did not meet the requirement of a showing of  
11 continuity plus relationship which combines  
12 to produce a pattern. Id. The RICO counts  
13 were properly dismissed for failure to state  
14 a claim on this ground."

15 Id. at 1399.

16 In Medallion, supra, 833 F.2d 1360 (9th Cir. 1987) the  
17 facts as alleged disclosed a single alleged fraud with a single  
18 victim. In affirming the decision of the court below, the Court  
19 held as follows:

20 "The presence or absence of continuity among  
21 the acts is the distinguishing factor in our  
22 cases and is the factor that most influences  
23 our decision in this case. Continuity does  
24 not require a showing that the defendants  
25 engaged in more than one "scheme" or  
26 "criminal episode". (Citations omitted.)  
27 The circumstances of the case, however, must  
28 suggest that the predicate acts are

1 indicative of a threat of continuing  
2 activity. (Citations omitted.) Here, that  
3 threat is absent. This case involved but a  
4 single alleged fraud with a single victim.  
5 All of SelectTV's assertions about the number  
6 of licensing agreements it had obtained were  
7 parts of its single effort to induce  
8 Medallion to form the joint venture. . . .  
9 In essence, Medallion's allegations concern  
10 a single fraudulent inducement to enter a  
11 contract. Once the joint venture had  
12 acquired the broadcast rights, the fraud, if  
13 indeed it was a fraud, was complete. Id. at  
14 1363-4.

15 The court concluded that:

16 "If the fraud alleged here constitutes a  
17 pattern of racketeering activity, rare would  
18 be the fraud that could not be pleaded as a  
19 RICO case. Although we observe Sedima's  
20 mandate that RICO be construed broadly  
21 (citation omitted) we cannot believe that  
22 Congress intended that RICO should apply to  
23 a single, isolated transaction such as this.  
24 Id. at 1365.

25 In the present matter, the allegations of Count One,  
26 even taken as true, fail to establish a threat of continuing  
27 activity by any defendant at any time. The acts of racketeering  
28 allegedly directed at, or affecting, plaintiff are all related

1 to one transaction, the "theft by fraud" alleged in ¶ 17 (c) of  
2 the complaint. Apart from the fact that the alleged "theft by  
3 fraud" is not an act proscribed by 18 U.S.C. § 1961(1), it does  
4 not carry with it any threat of continuing activity, nor is any  
5 such threat alleged. That this is in fact a completed, "single,  
6 isolated transaction" (Medallion, supra, at 1365) is clearly  
7 demonstrated not only by the allegations in the Complaint, read  
8 as a whole, but more particularly by the fact that the  
9 "injunctive or other equitable order" sought by plaintiff  
10 relates solely to the return of the coins allegedly sold to  
11 Heritage. Complaint, ¶ 27. Plaintiff does not seek to enjoin  
12 any conduct on the part of defendants, nor is any continuing  
13 activity by them alleged. Count One must be dismissed.

#### 14 IV

#### 15 THE PENDENT STATE CLAIMS SHOULD BE DISMISSED

16 In the event that Count One is dismissed, the pendent  
17 state claims alleged in Counts Two through Nine should also be  
18 dismissed. The dismissal of pendent state claims is  
19 particularly appropriate where, as here, all federal claims are  
20 dismissed prior to trial. Jason v. Fonda, 698 F.2d 966, 967  
21 (9th Cir. 1983); United Mineworkers v. Gibbs, 383 U.S. 715, 726-  
22 27 (1966). On dismissal of the RICO claim, only state claims  
23 and issues remain and fairness to the defendants dictates that  
24 they be entitled to have those claims and issues adjudicated in  
25 state court.

V

MOTION TO STRIKE

In the event that Count One is not dismissed, defendants Hall and PCGS move to strike ¶ 27 of plaintiff's complaint, which seeks private equitable relief.

Federal Rule 12(f) empowers the Court to order stricken from any pleading "any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Motions to strike "requests for certain types of relief, such as punitive or compensatory damages, are generally granted where such relief is not recoverable under the applicable law." 2A J.W. Moore and J. Lucas, Moore's Federal Practice, ¶ 12.21 (2nd Ed. 1987).

The Ninth Circuit has determined that private equitable relief is not available to a private party in a civil RICO action. See, Religious Technology Center v. Wollersheim, 796 F.2d 1076, 1088-1089 (9th Cir. 1986); Republic of the Philippines v. Marcos, 818 F.2d 1473, 1479 (9th Cir. 1987). Accordingly, paragraph 27 of the complaint, which seeks equitable relief, should be stricken.

VI

MOTION FOR SANCTIONS

The true motivation of plaintiff in asserting a RICO claim against defendants emerges from the matters alleged in Count Five of his complaint (and the Third Cause of Action of his dismissed state court complaint), which alleges slander against all defendants. Fearing himself implicated in a fraudulent scheme wherein PCGS coin holders have been tampered

1 with, and counterfeit coins substituted or coin grades altered,  
2 and under investigation by federal authorities in connection  
3 therewith, plaintiff appears to have decided that the best form  
4 of defense is attack. When the complaint filed in state court  
5 failed to intimidate Hall or PCGS, or any of the defendants,  
6 plaintiff threatened to and did institute action in this court,  
7 labeling all of the defendants as racketeers and criminals, and  
8 seeking treble damages.

9 Plaintiff's inability to plead any allegations in his  
10 RICO claim, except those relating to the sale of coins to  
11 Heritage, with specificity, is ample evidence of the utter lack  
12 of foundation which those other allegations have. The "acts of  
13 racketeering" enumerated in ¶¶ 17 and 23 of the Complaint are  
14 alleged "on information and belief", without even an attempt to  
15 state the facts upon which the belief is based. Neither  
16 plaintiff nor his attorney can be heard to say that the  
17 pleading requirements of Rule 9(b) were not known to them.  
18 Whatever excuses the complexity of the RICO statute may afford  
19 to a plaintiff asserting a RICO claim, none of these excuses  
20 apply to the overriding application of Rule 9(b). Allegations  
21 of fraud and racketeering are calculated to do tremendous harm  
22 to business and personal reputations, as has been the case in  
23 the present matter.

24 A. Mandatory sanctions for lack of candor and failure to  
25 make reasonable prefiling factual and legal inquiry.

26 Pursuant to Rule 11, an attorney who signs a  
27 "pleading, motion or other paper" in federal court warrants  
28 "that it is well grounded in fact, that it is warranted by

1 existing law or a good faith argument for an extension,  
2 modification or reversal of existing law, and that it is not  
3 filed for an improper purpose." Id. Far from presenting a  
4 close question of a Rule 11 violation, it is clear that  
5 plaintiff and his attorneys, in filing the RICO claim in this  
6 case, have been content to elevate unfounded and uninvestigated  
7 rumors or suspicions into allegations of fact.

8 Prior to its 1983 amendment, Rule 11 was interpreted  
9 to require subjective bad faith by the signing attorney to  
10 warrant the imposition of sanctions. Golden Eagle Distributing  
11 Corp. v. Burroughs Corp., 801 F.2d 1531, 1536 (9th Cir. 1986).  
12 The text of the present Rule, however, represents an intentional  
13 abandonment of the subjective focus of its predecessor in favor  
14 of an objective one. Id. The attorney's certificate of good  
15 faith now tests the knowledge of the signing attorney by a  
16 "reasonableness under the circumstances" standard. Id. Thus,  
17 counsel can no longer avoid the sting of Rule 11 sanctions "by  
18 operating under the guise of a pure heart and empty head."  
19 Zuinga v. United Can Co., 812 F.2d 443, 452 (9th Cir. 1987).  
20 Rule 11 now requires that sanctions "shall be assessed if the  
21 paper filed in the district court and signed by an attorney or  
22 unrepresented party is frivolous, unreasonable, or without  
23 factual foundation, even though the paper was not filed in  
24 subjective bad faith." Golden Eagle, supra, 801 F.2d at 1838  
25 (emphasis added). Rule 11 "stresses the need for some pre-  
26 filing inquiry into both the facts and the law to satisfy the  
27 affirmative duty imposed by the Rule." Advisory Committee Note  
28 on Rule 11. Sanctions are mandatory if a violation has

1 occurred. Unioil, Inc. v. E. F. Hutton & Co., 809 F.2d 548,  
2 559 (9th Cir.), Cert. denied, 108 S. Ct. 83 (1987). Rule 11 is  
3 intended to be applied "vigorously" by district courts to curb  
4 the abuse of frivolous pleadings. Hurd v. Ralphs Grocery Co.,  
5 824 F.2d 806, 808 (9th Cir. 1987).

6 The rationale for requiring a reasonable amount of  
7 preliminary factual investigation is obvious, and applies  
8 equally in this case:

9 "This rule aims . . . to prevent situations  
10 in which all parties incur unnecessary costs  
11 in litigating a claim which a modicum of  
12 investigation would have avoided. Obviously  
13 a preliminary inquiry into facts which may  
14 not support a claim imposes some costs of  
15 investigation which a potential plaintiff  
16 may never recover at law. The alternative  
17 procedure as practiced by Plaintiff here,  
18 imposes costs on all parties (and the  
19 judicial system) which greatly exceed the  
20 expense of a reasonable inquiry prior to  
21 suit. Federal Rule of Civil Procedure 11  
22 specifically aims at preventing the costs  
23 attendant upon a 'sue now, inquire later'  
24 mentality."

25 Foster v. Michelin Tire Corp., 108 F.R.D. 412, 414-415 (C.D.  
26 Ill. 1985)

27 The complete lack of specificity as to any conduct of  
28 the defendants not directly related to the sale of coins by

1 plaintiff to Heritage amply demonstrates the complete lack of  
2 any meaningful investigation before filing of the Complaint.

3 The RICO claim has been brought in a patent attempt to  
4 intimidate defendants, with allegations of fraud and  
5 racketeering and the threat of treble damages, in order to  
6 divert attention from plaintiff. It has impugned the integrity  
7 of Hall and PCGS (as well as the other defendants) when there  
8 were no grounds whatsoever for doing so, and in these  
9 circumstances the Court should sanction plaintiff by awarding  
10 defendants Hall and PCGS their attorneys' fees and costs in  
11 defending this factually and legally frivolous claim.

12 VII

13 CONCLUSION

14 It is clear that plaintiff's RICO claim is deficient,  
15 and should be dismissed. Once that claim is dismissed, the  
16 court should exercise its discretion to dismiss the pendent  
17 state claims. In addition, the court should levy Rule 11  
18 sanctions against plaintiff.

19 DATED: October 20, 1988

LATHAM & WATKINS

20  
21 

22 By: Peter J. Wilson  
23 Attorneys for Defendants  
24 David Hall and Professional  
25 Coin Grading Service  
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PROOF OF SERVICE BY MAIL

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is that of Latham & Watkins as set forth on the first page of the document to which this Proof is attached.

I served the below listed document(s) described as:

Joint Memorandum of Points and Authorities and Request for Judicial Notice

on October 20, 1988 on all other parties to this action by placing a [xx] true copy [ ] original of the above document enclosed in a sealed envelope addressed as follows:

William J. Reifman, Esq.  
Mayer, Brown & Platt  
355 S. Grand Avenue  
Los Angeles, CA 90071

Robert M. Ross  
Klass, Helman & Ross  
10850 Wilshire Blvd., Suite 500  
Los Angeles, CA 90024

[ ] I placed such envelope with postage thereon fully prepaid in the United States Mail at \_\_\_\_\_, California.


[xx] I placed such envelope with postage thereon fully prepaid for deposit in the United States mail in accordance with the office practice of Latham & Watkins for collecting and processing correspondence for mailing with the United States Postal Service. I am familiar with the office practice of Latham & Watkins for collecting and processing correspondence for mailing with the United States Postal Service, which practice is that when correspondence is deposited with the Latham & Watkins personnel responsible for delivering correspondence to the United States Postal Service, such correspondence is delivered to the United States Postal Service that same day in the ordinary course of business.

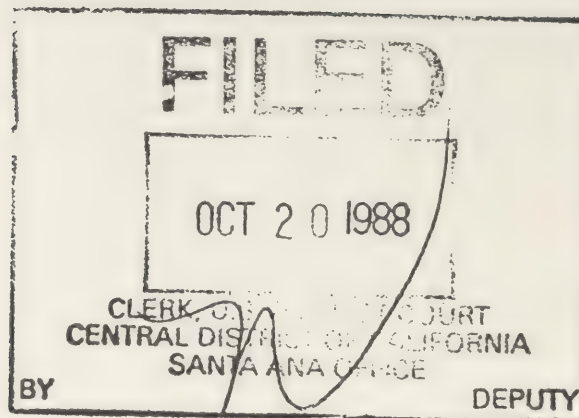
Executed on October 20, 1988, at Costa Mesa, California.

[ ] (State) I declare under penalty of perjury that the above is true and correct.

[xxx] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
Sandra L. McNeff

  
\_\_\_\_\_  
(Signature)



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Gary Fernandez

Plaintiff,

vs.

David Hall, et al

Defendant

Civil No. CVSA88-556 JSL

ORDER

This case has been assigned to Judge J. Spencer Letts. IT IS HEREBY ORDERED that all counsel in this action shall personally appear for an initial, informal conference at 3:30 P.M. November 21, 1988, in Courtroom 2, of the United States Courthouse, 751 W. Santa Ana Blvd., Santa Ana, Ca. This conference is in addition to and not in lieu of meetings or conferences required by Local Rules or by further order of this Court.

Counsel and each party or a responsible client representative in addition to counsel shall attend the initial conference.  
FAILURE TO COMPLY WILL RESULT IN THE IMPOSITION OF SANCTIONS.  
Party representatives need not have any settlement authority.

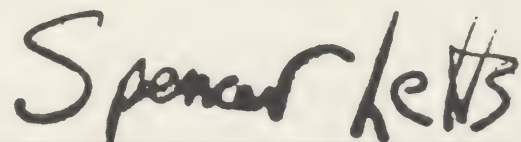
(h)

1 Each party will be expected, however, to have arrived at a  
2 responsible estimate of what it would take to settle or dispose  
3 of the case that day, without further factual development.

4 Counsel will be deemed responsible for client attendance. Each  
5 client or representative shall have received a copy of this  
6 order prior to the conference, and will be expected to have read  
7 and understood it.

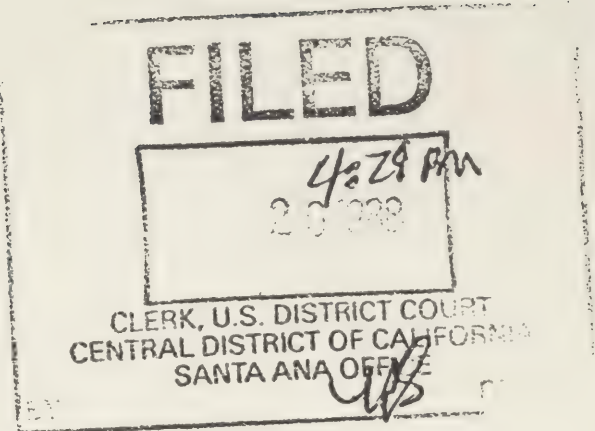
8 At the initial conference, counsel should be prepared to  
9 discuss, on a preliminary basis, most or all of the subject  
10 specified in Local Rules 6.4.2 and 9, and in Fed.R.Civ.P. 16(c).  
11 The discussion will be based upon information available at the  
12 time of the conference. Extensive preparation should not be  
13 required. Counsel will be expected, however, to engage in  
14 serious discussion of the case, as it stands. The Court will  
15 not expect either party or counsel to attempt to evade  
16 discussion entirely on the basis that "too little is known."

17 If it appears desirable, the Court will ask permission of the  
18 parties to engage in such discussion confidentially and ex  
19 parte. The initial conference will last approximately 30-45 min

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25 J. SPENCER LETTS  
26 United States District Judge  
27  
28

1 LATHAM & WATKINS  
Robert E. Currie  
2 Peter J. Wilson  
650 Town Center Drive, 20th Floor  
3 Costa Mesa, California 92626  
4 (714) 540-1235  
5 Attorneys for Defendants  
David Hall and Professional  
6 Coin Grading Service



8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11 GARY FERNANDEZ,	) Case No. CV 88-556 JSL(RWRx)
12	)
13 Plaintiff,	) REQUEST TO TAKE JUDICIAL
14 v.	) NOTICE IN SUPPORT OF
15 DAVID HALL; PROFESSIONAL COIN	) MOTION TO DISMISS AND
16 GRADING SERVICE, a California	) FOR SANCTIONS
17 corporation; STEVEN IVY;	)
18 JAMES HALPERIN; HERITAGE CAPITAL	) Date: November 14, 1988
19 CORPORATION, a Texas corporation;	) Time: 1:00 p.m.
20 and DOES 1 through 20, inclusive,	) Place: Courtroom 2
21	)
22 Defendants.	)
23	)

19 Pursuant to Rule 201 of the Federal Rules of Evidence,  
20 Defendants David Hall and Professional Coin Grading Service  
21 hereby request the Court to take judicial notice of the  
22 Complaint filed in Orange County Superior Court under Case No.  
23 564410, a conformed copy of which is attached hereto as Exhibit  
24 "A". The basis for judicial notice is that in a Motion to  
25 Dismiss, the Court may take judicial notice of matters of public  
26 record outside the pleadings. Rule 201 of the Federal Rules of  
27 Evidence; MGIC Indemnity Corp. v. Weisman, 803 F. 2d 500, 504  
28 (9th Cir. 1986); Mack v. Southbay Beer Distributor, 798 F. 2d

5

1 1279, 1282 (9th Cir. 1986).

2 DATED: October 20, 1988

3 LATHAM & WATKINS

4 By: Peter J. Wilson

5 Peter J. Wilson  
6 Attorneys for Defendants  
7 DAVID HALL and  
8 PROFESSIONAL COIN  
9 GRADING SERVICE  
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1 ROBERT M. R  
2 KLAB, HELMAN & ROSS  
3 10850 Wilshire Blvd., Suite 500  
4 Los Angeles, California 90024  
5 213/277-2224

FILED

AUG 04 1988

Attorneys for Plaintiff Gary Fernandez

GARY L. GAVIN, County Clerk  
By \_\_\_\_\_ DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF ORANGE

11 GARY FERNANDEZ,

12 Plaintiff,

13 v.

14 DAVID HALL; PROFESSIONAL COIN  
15 GRADING SERVICE, a California  
16 corporation; STEVEN IVY;  
17 JAMES HALPERIN; HERITAGE  
18 CAPITAL CORPORATION, a Texas  
19 corporation; and DOES 1  
20 through 20, inclusive,

Defendants.

Case No.

564410

COMPLAINT FOR DAMAGES FOR  
GOODS SOLD AND DELIVERED;  
BREACH OF ORAL CONTRACT;  
SLANDER; INTENTIONAL INFLICTION  
OF EMOTIONAL DISTRESS;  
NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS; CONVERSION;  
CLAIM AND DELIVERY

21 Plaintiff alleges:

22 GENERAL ALLEGATIONS

23 1. Plaintiff Gary Fernandez is a resident of the State of  
24 California, County of Alameda, and at all times herein mentioned  
25 was doing business as a rare coin dealer doing business throughout  
26 the state of California and the United States.

27 2. Plaintiff is informed and believes, and thereon alleges,  
28 that defendant Professional Coin Grading Service (hereinafter

1 referred to ("PCGS") is, and at all times herein mentioned was, a  
2 California corporation, with its principal place of business in the  
3 County of Orange, City of Newport Beach, State of California.

4 Plaintiff is further informed and believes, and thereon alleges,  
5 that said corporation does business throughout the United States.

6 3. Plaintiff is informed and believes, and thereon alleges,  
7 that defendant David Hall is a resident of the City of Newport  
8 Beach, County of Orange, State of California.

9 4. Plaintiff is informed and believes, and thereon alleges,  
10 that defendant Heritage Capital Corporation (hereinafter referred  
11 to as "Heritage") is a corporation organized in the State of Texas  
12 and doing business throughout the State of California, including  
13 Newport Beach, California, and that the coins referred to in  
14 Paragraph 7 hereof as hereinafter set forth, were purchased by said  
15 corporation from plaintiff and are presently located in Newport  
16 Beach, California at the location of defendant PCGS, having been  
17 delivered to defendant PCGS by defendant Heritage.

18 5. Plaintiff is informed and believes, and thereon alleges  
19 that defendants Steven Ivy and James Halperin are now, and at all  
20 times herein mentioned were, residents of the State of Texas.

21 6. Plaintiff is ignorant of the true names and capacities  
22 and identities of defendants DOES 1 through 20 and therefore sues  
23 said defendants by such fictitious names, and will ask leave of  
24 court to amend this complaint and set forth the true names and  
25 capacities of said defendants when same are ascertained.

26 6. Plaintiff is informed and believes, and thereon alleges,  
27 that each of the Doe defendants were, and are, in some way liable  
28 for the losses hereinafter alleged to plaintiff, and plaintiff will

1 amend this complaint to set forth the true nature of the acts  
2 and/or omissions of each said Doe defendant, proximately causing  
3 said loss to plaintiff when said loss is ascertained.

4 7. On or about July 15, 1988, and to and including July 20,  
5 1988, plaintiff sold and delivered to defendant Heritage gold and  
6 silver coins for an agreed upon sum of \$891,378. Said coins are  
7 itemized on Exhibit "A" hereof, and incorporated hereat by this  
8 reference.

9 8. Neither whole nor any part of said sum has been paid,  
10 and there is presently due, owing and payable from defendant  
11 Heritage to plaintiff the sum of \$891,378.

12 9. PCGS is a business entity presently operated by  
13 defendant David Hall. The business of defendant PCGS consists of  
14 the grading by appraisal of valuable coins, sealing the coin so  
15 appraised in an impenetrable plastic casing and guaranteeing the  
16 value of the coin to be as graded based upon the then current  
17 market value for such coins of said grade.

18 10. Plaintiff is informed and believes, and thereon alleges  
19 that each and all of the defendants herein, in doing the act or  
20 actions herein alleged, were acting in consort with, and as the  
21 agents, employees, or representatives of each and all of their co-  
22 defendants.

23 11. Plaintiff is informed and believes, and thereon alleges  
24 that defendant Heritage was and is a mere sham and shell organized  
25 and operated as the alter ego of the individual defendants, Steven  
26 Ivy and James Halperin, for their personal benefit and advantage in  
27 that the individual defendants have at all times herein mentioned  
28 exercised total dominion and control over the corporate defendant

1 and that the individual defendants well and are the only  
2 significant shareholders of the corporation. Plaintiff is informed  
3 and believes, and hereon alleges, that the individual defendants,  
4 Steven Ivy and James Halperin, and the corporate defendant,  
5 Heritage have so intermingled their personal and financial affairs  
6 that the corporate defendant was and is the alter ego of the said  
7 individual defendants such that an injustice will result if the  
8 theoretical entity of the corporate defendant is not disregarded  
9 and the individual defendant's held liable for the indebtedness of  
10 the corporate defendant.

11 12. Plaintiff is further informed and believes, and thereon  
12 alleges that defendant PCGS was and is a mere sham and shell  
13 organized and operated as the alter ego of the individual defendant  
14 David Hall for his personal benefit and advantage in that said  
15 individual defendant David Hall has at all times herein mentioned  
16 exercised total dominion and control over the corporate defendant  
17 PCGS. Plaintiff is further informed and believes, and thereon  
18 alleges that the individual defendant David Hall and the corporate  
19 defendant PCGS have so intermingled their personal and financial  
20 affairs that the corporate defendant PCGS was and is the alter ego  
21 of defendant David Hall and that an injustice will result of the  
22 theoretical entity of the corporate defendant is not disregarded  
23 and the individual defendant David Hall be held liable for the  
24 indebtedness of the corporate defendant.

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FIRST CAUSE OF ACTION

(Against Defendants Heritage, Steven Ivy And  
James Halperin)

13. Plaintiff incorporates by this reference each and every allegation set forth in Paragraphs 1 through 12 of the General Allegations as though fully set forth at this place.

14. Within two years, on or about July 14 through July 20, 1988, defendant Heritage as the alter ego of defendants Steven Ivy and James Halperin, became indebted to plaintiff for goods sold and delivered by plaintiff to defendants Heritage, Ivy and Halperin, who then and there agreed to pay the sum of \$807,378 for said goods.

15. ~~Neither the whole nor any part of the~~ above sum has been paid although demand therefore has been made and there is now due, owing and unpaid from defendants Heritage, Ivy and Halperin to plaintiff the sum of \$807,378, together with interest thereon at the rate of ten percent (10%) per annum from July 20, 1988.

SECOND CAUSE OF ACTION

(For Breach Of Oral Contract Against  
Defendants Heritage, Ivy And Halperin)

16. Plaintiff incorporates by this reference each and every allegation set forth in Paragraphs 1 through 12 of the General Allegations and Paragraphs 14 and 15 of the First Cause of Action, as though fully set forth at this place.

17. On or about July 20, 1988, plaintiff and defendants Heritage, Ivy and Halperin entered into an oral agreement whereby plaintiff agreed to sell and deliver antique gold and silver coins

1 having an agreed value of \$807,378, defendants Heritage, Ivy  
2 and Halperin agreed to pay the specific sum of \$807,378 for said  
3 coins.

4 18. Plaintiff has performed all conditions, covenants and  
5 promises required by him on his part to be performed in accordance  
6 with the terms and conditions of the contract and said coins were  
7 delivered to defendants Heritage, Ivy and Halperin by plaintiff  
8 through plaintiff's agent on or about July 20, 1988.

9 19. On or about July 20, 1988, defendants breached the oral  
10 agreement by failing and refusing to pay the sum agreed upon,  
11 notwithstanding that defendants Heritage, Ivy and Halperin took  
12 possession of said gold and silver coins, and have acknowledged  
13 receipt thereof and now refuse to either forthwith pay the said  
14 agreed sum of \$807,378 or to return the coins, notwithstanding  
15 demand therefore having been made.

16 20. As a direct and proximate result of the breach of  
17 contract by defendants Heritage, Ivy and Halperin, plaintiff has  
18 been damaged in the sum of \$807,378 plus interest thereon at the  
19 legal rate of ten percent (10%) per annum from July 20, 1988 until  
20 said sum is paid.

21

22

### THIRD CAUSE OF ACTION

23

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21. Plaintiff incorporates by this reference each and every  
allegation set forth in Paragraphs 1 through 12 of the General

1 Allegation, Paragraphs 14 and 15 of the First Cause of Action, ar  
2 Paragraphs 17 through 20 of the Second Cause of Action, as though  
3 fully set forth at this place.

4 22. Plaintiff is informed and believes, and thereon alleges  
5 that commencing on or about July 14, 1988 defendants David Hall,  
6 acting individually and for and on behalf of defendant PCGS and  
7 defendants Steven Ivy and James Halperin, acting individually and  
8 for and on behalf of defendant Heritage, and defendants Does 1  
9 through 10, inclusive, published both by speaking and upon  
10 information and belief, in written form, the following words, of  
11 and concerning the plaintiff:

12 A. Defendants Hall and PCGS published allegations that  
13 PCGS's security system had been breached and that between two  
14 hundred and five hundred coins analyzed, graded and sealed by PCGS  
15 were allegedly being illicitly sold.

16 B. Defendants Hall and PCGS, together with defendants  
17 Heritage, Ivy and Halperin, and defendants Does 1 through 10 orally  
18 published an accusation associating plaintiff with said "illicit"  
19 coins essentially telling people with whom plaintiff did business,  
20 and who then owed plaintiff money, in connection with coins sold by  
21 plaintiff that such persons should not do business with plaintiff.  
22 Said named defendants further stated that plaintiff has been  
23 selling illicit coins.

24 C. Defendant Hall, individually, and for and on behalf of  
25 PCGS and defendants Ivy and Halperin, individually and for and on  
26 behalf of Heritage, did further orally publish statements accusing  
27 plaintiff of being under investigation by the FBI for criminal  
28 and/or fraudulent conduct relating to the sale of "illicit" coins.

1 Said defendants, along with defendants Nos 1 through 10, further  
2 advised people with whom plaintiff was engaged in a business  
3 relationship not to pay plaintiff for any coins he has sold, not to  
4 do business with plaintiff because he was engaged in illicit coin  
5 sales and further stated that they were going to "close him down".

6 23. These words were heard by Joel Rettew, Charles  
7 Anastasia, Steven Ivy, James Halperin, John Highfill, Heritage  
8 Capital Corporation and other persons not presently known to  
9 plaintiff.

10 24. These words were slanderous per se because they attack  
11 plaintiff in his reputation in business and impugn to plaintiff  
12 criminal acts and fraudulent acts.

13 25. The words uttered were false because plaintiff has not  
14 altered any of the PCGS packaging, nor has plaintiff ever knowingly  
15 sold any coin in an altered PCGS package. Moreover, PCGS has  
16 placed in the marketplace packaged coins with gross errors in  
17 grading which plaintiff is informed and believes constitute the  
18 allegedly "illicit" coins to which defendants Hall and PCGS refer  
19 to in its allegations set forth in Paragraph 22, above.

20 26. The words carry a defamatory meaning because, the market  
21 value for any given coin is effected by the grading of said coin by  
22 PCGS. If a PCGS graded coin has been altered or substituted, the  
23 buyer will receive a coin having a value other than as represented  
24 by the grade of the coin set forth on the tag accompanying the coin  
25 in the sealed plastic container. If a coin merchant is accused of  
26 selling "illicit" coins, no one hearing and believing said  
27 accusation will do business with such person since they cannot rely  
28 upon the value of the coins being sold by such person.

1 27. The words were understood by those who read and/or heard  
2 them in a way that defamed plaintiff because, an "illicit" coin  
3 means that either the integrity of the plastic packaging has been  
4 damaged and the coin has been replaced or substituted for another  
5 coin, or the integrity of the plastic packaging has been  
6 compromised and the paper tag showing the grading of the coin has  
7 been altered or substituted. In either way, the purchaser of the  
8 said coin is not getting that which is being represented by PCGS as  
9 a specifically graded coin.

10 28. As a result of the above described words, plaintiff has  
11 suffered general damages to his reputation in the sum of  
12 \$10,000,000.

13 29. As a further proximate result of the above described  
14 words, plaintiff has suffered the following special damages:

15 A. Charles Anastasia has failed and refused to pay  
16 \$57,600 for coins heretofore sold to Charles Anastasia by  
17 plaintiff;

18 B. Defendants Heritage, Ivy and Halperin have failed  
19 and refused, and continue to fail and refuse to pay the sum of  
20 \$807,378 due and owing for coins sold to said defendants by  
21 plaintiff;

22 C. Plaintiff has been unable to engage in plaintiff's  
23 business, trade and profession, because no one in the coin business  
24 will buy from or sell to plaintiff. Plaintiff is informed and  
25 believes, and thereon alleges that the total cessation of his  
26 business from and after July 20, 1988 is directly attributable to  
27 the allegations made against him as hereinabove set forth and his  
28 entire business has ceased, all to his injury in the sum of

1 \$10,000,000(

2 30. The above described words were spoken by defendants and  
3 each of them, with malice, oppression and fraud in that plaintiff  
4 is informed and believes that the accusations against him are  
5 designed as a subtrafuge and cover-up for PCGS' internal errors in  
6 the grading of coins. Plaintiff is informed and believes, and  
7 thereon alleges, that he has been made a scapegoat by defendants in  
8 order to shift the focus of blame for PCGS' internal errors which,  
9 if known to the community of coin traders would adversely affect  
10 the marketplace since it would become difficult to rely upon the  
11 grading of PCGS to determine the value of a coin. By reason of  
12 such intentional, malicious and oppressive acts of the defendants  
13 and each of them, plaintiff is entitled to an award of exemplary  
14 and punitive damages in the amount of \$10,000,000.

15  
16 FOURTH CAUSE OF ACTION

17 (Against Defendants Hall, PCGS, Ivy, Halperin

18 Heritage And Does 1 Through 10)

19 31. Plaintiff incorporates by this reference each and every  
20 allegation set forth in Paragraphs 1 through 12 of the General  
21 Allegations, Paragraphs 14 and 15 of the First Cause of Action,  
22 Paragraphs 17 through 20 of the Second Cause of Action, and  
23 Paragraphs 22 through 30 of the Third Cause of Action, as though  
24 fully set forth at this place.

25 32. Plaintiff is informed and believes, and thereon alleges  
26 that defendant Hall, individually, and for and on behalf of  
27 defendant PCGS, and defendants Ivy and Halperin, individually and  
28 for and on behalf of defendant Heritage, and defendants Does 1

1 through 10, ( inclusive; knowing of plaintiff's relationships with  
2 Joel Rettew, Heritage, John Highfill and others, on or about July  
3 15, 1988, met with Joel Rettew, Heritage, John Highfill and others  
4 and falsely accused plaintiff of improper conduct, fraudulent acts  
5 and the sale of "illicit" coins all with the intent to harm  
6 plaintiff financially and to induce Joel Rettew, Heritage and  
7 others to breach their then existing contracts with plaintiff by  
8 inducing them not to pay plaintiff for merchandise sold by  
9 plaintiff to Joel Rettew in the approximate amount of \$57,600 and  
10 to Heritage in the approximate amount of \$807,378.

11 33. As a direct and proximate result of the actions of the  
12 defendants, and each of them, Joel Rettew has failed and refused to  
13 pay \$57,600 owed to plaintiff from Joel Rettew, and Heritage has  
14 refused and failed to pay \$807,378 owed by Heritage to plaintiff.

15 34. Plaintiff is informed and believes, and thereon alleges  
16 that failure and refusal of John Highfill, and others, to do any  
17 further business with plaintiff is a direct and proximate result of  
18 the publications made by the defendants, and each of them, against  
19 plaintiff concerning his business practices, impugning fraudulent  
20 conduct to him, and alleging that he was selling "illicit" coins.

21 35. The aforementioned acts of defendants and each of them  
22 were willful and oppressive, and were done with malice in that they  
23 were designed and intended to harm plaintiff, prevent plaintiff  
24 from conducting business, and deprive plaintiff of the benefits of  
25 contracts for which he had fully performed. Plaintiff is therefore  
26 entitled to punitive damages in the sum of \$10,000,000.

27 36. As a direct and proximate result of the allegations of  
28 the defendants, and each of them, plaintiff has suffered damages by

1 reason of breach of contracts between plaintiff and third parties,  
2 including Rettew and Heritage, in a sum not yet fully ascertained  
3 by plaintiff who will ask leave of this court to amend the  
4 complaint when same is fully ascertained. Plaintiff alleges said  
5 sum exceeds \$950,000.

6  
7 FIFTH CAUSE OF ACTION

8 (For Intentional Infliction Of Emotional Distress

9 Against Defendants Hall, PCGS, Ivy, Halperin,

10 Heritage, And Does 1 Through 10, Inclusive)

11 37. Plaintiff incorporates by this reference each and every  
12 allegation set forth in Paragraphs 1 through 12 of the General  
13 Allegations, Paragraphs 14 and 15 of the First Cause of Action,  
14 Paragraphs 17 through 20 of the Second Cause of Action, Paragraphs  
15 22 through 30 of the Third Cause of Action, and Paragraphs 32  
16 through 36 of the Fourth Cause of Action; as though fully set forth  
17 at this place.

18 38. Plaintiff is informed and believes and thereon alleges  
19 that in doing the acts hereinabove alleged, defendants intended to  
20 cause plaintiff great emotional distress. As a proximate result of  
21 the acts of defendants, and each of them as hereinabove described,  
22 plaintiff has sustained and continues to sustain emotional distress  
23 and mental suffering, not limited to sleepless nights, anxiety,  
24 nightmares and eating disorders, all to plaintiff's general damages  
25 in an amount not yet ascertained. Plaintiff will seek leave of  
26 this court to amend this complaint when same are ascertained.

27 39. As a further direct and proximate result of said  
28 conduct, plaintiff will incur medical and incidental expenses

1 relating to distress, the exact amount not yet ascertained and  
2 plaintiff will seek leave of this court to amend this complaint  
3 when same are ascertained.

4 40. By reason of the intentional acts of defendants,  
5 defendants, and each of them, acting with malice and oppression,  
6 designed to cause plaintiff mental and emotional distress.  
7 Defendants, and each of them, are liable to plaintiff for exemplary  
8 and punitive damages in the sum of \$10,000,000.

10 SIXTH CAUSE OF ACTION

11 (For Negligent Infliction Of Emotional Distress)

12 41. Plaintiff incorporates by this reference each and every  
13 allegation set forth in Paragraphs 1 through 12 of the General  
14 Allegations, Paragraphs 14 and 15 of the First Cause of Action,  
15 Paragraphs 17 through 20 of the Second Cause of Action, Paragraphs  
16 22 through 30 of the Third Cause of Action, Paragraphs 32 through  
17 36 of the Fourth Cause of Action, and Paragraphs 38 through 40 of  
18 the Fifth Cause of Action, as though fully set forth at this place.

19 42. Plaintiff is informed and believes, and thereon alleges  
20 that each and all of the representations hereinabove set forth were  
21 made by defendants, and each of them, without any justification or  
22 fact, or without any knowledge, information or evidence to support  
23 any of the defendants' claims as alleged in Paragraph 22, herein.  
24 As a direct and proximate result of the recklessness of the  
25 defendants, and each of them, in making the allegations as set  
26 forth in Paragraph 22, and in making said allegations without any  
27 factual basis therefore, defendants and each of them were grossly  
28 negligent.

1 43. ( s a direct and proximate ( sult of the recklessness of  
2 the conduct of defendants and each of them plaintiff has sustained  
3 damage to his reputation in the business community, has sustained  
4 monetary damages in a sum in excess of \$950,000 and has sustained  
5 severe anguish and anxiety, mental and emotional distress,  
6 discomfort, pain and suffering, all to his general damages in a su  
7 to be ascertained at the time of trial. Plaintiff will ask leave  
8 of the court to amend this complaint to set forth the same when  
9 ascertained.

10 44. As a direct and proximate result of the actions of the  
11 defendants, and each of them, plaintiff is informed and thereon  
12 alleges that he will sustain medical and incidental expenses  
13 relating to and in connection with ~~the emotional distress herein~~  
14 alleged, in an amount not yet fully ascertained, and plaintiff will  
15 ask leave of the court to amend this complaint to set forth the  
16 amount of special and incidental damages sustained, including but  
17 not limited to those for medical practitioners when same are  
18 ascertained.

19  
20 SEVENTH CAUSE OF ACTION

21 (For Conversion Against Defendants Hall And PCGS)

22 45. Plaintiff incorporates by this reference each and every  
23 allegation set forth in Paragraphs 1 through 12 of the General  
24 Allegations, Paragraphs 14 and 15 of the First Cause of Action,  
25 Paragraphs 17 through 20 of the Second Cause of Action, Paragraphs  
26 22 through 30 of the Third Cause of Action, Paragraphs 32 through  
27 36 of the Fourth Cause of Action, Paragraphs 38 through 40 of the  
28 Fifth Cause of Action, and Paragraphs 42 through 44 of the Sixth

1 Cause of Act . as though fully set for at this place.

2 46. Plaintiff is informed and believes, and thereon alleges  
3 that on or about July 22, 1988, defendants Ivy and Halperin, for  
4 and on behalf of defendant Heritage did convey, transfer and  
5 deliver to David Hall and PCGS each and every item of personal  
6 property described upon Exhibit "A" hereof, attached hereto and  
7 incorporated hereat by this reference.

8 47. Plaintiff alleges that said items, having not been paid  
9 for, are the personal property of plaintiff.

10 48. Demand for the immediate return of plaintiff's property  
11 has been made upon defendants Hall, PCGS, Ivy, Halperin and  
12 Heritage, and said defendants, each and all, have refused to return  
13 said items, but have converted same to their own use and benefit,  
14 in derogation of plaintiff's rights thereto.

15 49. As a direct and proximate result of the conversion of  
16 said items of personal property, plaintiff has been deprived of the  
17 use and benefit of same, and defendants, and each of them, have  
18 been unjustly enriched by the use and benefit of same, all to  
19 plaintiff's damages in the sum of \$807,378.

20  
21 EIGHTH CAUSE OF ACTION

22 (For Claim And Delivery Against Heritage, Ivy,  
23 Halperin, And PCGS)

24 50. Plaintiff incorporates by this reference each and every  
25 allegation set forth in Paragraphs 1 through 12 of the General  
26 Allegations, Paragraphs 14 and 15 of the First Cause of Action,  
27 Paragraphs 17 through 20 of the Second Cause of Action, Paragraphs  
28 22 through 30 of the Third Cause of Action, Paragraphs 32 through

1 36 of the Fourth Cause of Action, Paragraphs 38 through 40 of the  
2 Fifth Cause of Action, Paragraphs 42 through 44 of the Sixth Cause  
3 of Action; and Paragraphs 46 through 49 of the Seventh Cause of  
4 Action as though fully set forth at this place.

5 51. Plaintiff is informed and believes, and thereon alleges  
6 that, in the absence of payment for personal property identified  
7 and listed on Exhibit "A" hereof, and incorporated hereat by this  
8 reference, plaintiff is the true and only owner of said items.

9 52. Plaintiff is informed and believes, and thereon alleges,  
10 that defendants PCGS, Hall, Heritage, Ivy and/or Halperin, and Does  
11 11 through 20, inclusive, claim an interest in and title to said  
12 items of personal property adverse to the claims of plaintiff.

13 53. Plaintiff has demanded return of the personal property  
14 from defendants named herein, and defendants have failed and  
15 refused, and continue to fail and refuse to deliver to plaintiff  
16 said items.

17  
18 NINTH CAUSE OF ACTION

19 (For Goods Sold And Delivered)

20 54. Plaintiff incorporates by this reference each and every  
21 allegation set forth in Paragraphs 1 through 12 of the General  
22 Allegations, as though fully set forth at this place.

23 55. Within two years and before July 14, 1988, defendant  
24 Heritage as the alter ego of defendants Steven Ivy and James  
25 Halperin, became indebted to plaintiff for goods sold and delivered  
26 by plaintiff to defendants Heritage, Ivy and Halperin, who then and  
27 there agreed to pay the sum of \$84,310 for said goods.

28 56. Neither the whole nor any part of the above sum has been

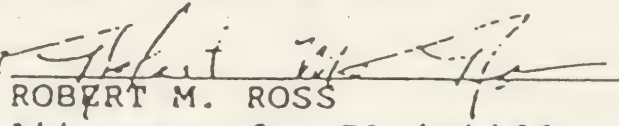
1 paid although demand therefore has been made and there is now due,  
2 owing and unpaid from defendants Heritage, Ivy and Halperin to  
3 plaintiff the sum of \$84,310, together with interest thereon at the  
4 rate of ten percent (10%) per annum from July 1, 1988.

5 WHEREFORE, plaintiff prays for judgment against defendants,  
6 and each of them, as follows:

- 7 1. For general damages according to proof;
- 8 2. For special damages according to proof;
- 9 3. For punitive damages according to proof;
- 10 4. For the immediate return of plaintiff's personal  
11 property;
- 12 5. For attorney's fees incurred in connection with the  
13 recovery of said personal property; \_\_\_\_\_
- 14 6. For costs of suit incurred herein; and
- 15 7. For such other and further relief as the court may deem  
16 just and proper.

17 DATED: August 1, 1988

KLASS, HELMAN & ROSS

18 By   
19 ROBERT M. ROSS  
20 Attorneys for Plaintiff  
21 Gary Fernandez  
22  
23  
24  
25  
26  
27  
28

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION			PHONE		DATE	
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
1	99	\$	PCGS 65			2550
1	90-00	\$	/			7750
2	90-0	\$	/		2325	4650
2	03	\$	/		800	1600
1	03-0	\$	/			1425
1	24-0	\$	/			2100
1	81	\$	64			320
1	81-0	\$	64			345
1	85-00	\$	64			350
1	90	\$	/			635
1	90-00	\$	/			1910
1	91-5	\$	/			465
2	91-00	\$	/		715	1430
1	91-0	\$	/			1100
1	00-5	\$	/			575
RECEIVED BY:				TOTAL		27205

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION			PHONE		DATE	
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
1	74	\$	PCGS 65			3345
1	80	\$	PCGS 65			4125
2	82-00	\$	PCGS 65		925	1850
10	83-00	\$	PCGS 65		697	6970
1	84	\$	PCGS 65			900
1	84-0	\$	PCGS 65			370
2	84-00	\$	PCGS 65		697	1394
1	85-00	\$	PCGS 65			1450
1	89	\$	PCGS 65			2130
1	89-5	\$	PCGS 65			4100
1	90-0	\$	PCGS 65			6770
1	91-00	\$	PCGS 65			5000
4	96	\$	PCGS 65		980	3920
1	97	\$	PCGS 65			1695
2	98	\$	PCGS 65		1100	2200
RECEIVED BY:				TOTAL		46779

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE	
NAME					
ADDRESS					
CASH		CONSIGNMENT		CHECK #	
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE AMOUNT
6		20	Libs PCGS 62	665	3990
12		20	Sts - -	650	7800
1	or	20	St - -	630	630
57		20	Sts PCGS 63	940	53580
10		20	Sts PCGS 64	1660	1660
1	99	10	Lib " 60		310
1		20	Lib PCGS 63		1550
14		20	Sts PCGS 64	1660	23240
20		20	Sts PCGS 63	940	18800
2		20	Sts 63 Better	975	1950
					113510
RECEIVED BY				TOTAL	
				113510	

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE	
NAME					
ADDRESS					
CASH		CONSIGNMENT		CHECK #	
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE AMOUNT
<del>4</del>	<del>11-11</del>	<del>\$</del>	<del>PCGS 63</del>		<del>350</del>
1	97	\$	PCGS 66		420
1	87	\$	PCGS 65 PL		60
			PS3		482
			PS 1		4677
			1 2		2720
					7880
			X 1.10		7880
					8178
1	91-12	\$	PCGS 63		33
RECEIVED BY				TOTAL	
				87021	

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION			PHONE		DATE	
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
2		\$20	5 lbs PCGS 64		1660	3320
6		\$20	Libs PCGS 64		400	24000
1	1/12	10	Ind PCGS 64			6350
1	01	15	Libs PCGS 63			1900
						35570
TOTAL						35570
RECEIVED BY:						

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION			PHONE		DATE	
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
1	1/20	25	Libs PCGS 64			345
1	28	2.5	Ind PCGS 63			132
1	27	2.5	Ind PCGS 64			365
1	28	2.5	Ind PCGS 64			365
1	01	5	Libs			535
1	08	5	Ind 63			370
1	01-3	10	Libs 63			242
1	02-5	10	Libs 63			242
1	07	10	Libs 63			242
10		20	5 lbs PCGS 65	3800		3800
1	26	2.5	Ind PCGS 64			802
28		20	5 lbs 63 Better	960		2688
2		20	Libs 63	1550		310
2		20	St 64	1660		332
1	01-3	60	St	1625		162
TOTAL						10931
RECEIVED BY:						

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE		
				7-20-88		
NAME						
Heritage						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
37			1/2 1/4 1/4		1660	11420
1			1/2 1/4			450
2			1/2 1/4		1100	1100
2			1/2 1/4		1100	1100
1			1/2 1/4			400
1			1/2 1/4			175
11			1/2 1/4		1100	1100
1			1/2 1/4			385
1			1/2 1/4			2700
1			1/2 1/4			1400
1			1/2 1/4			1250
1			1/2 1/4			3780
1			1/2 1/4		1675	2475
			1/2 1/4			4200
				TOTAL		
RECEIVED BY						

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE		
NAME						
Heritage						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
42			Misc PC's			
			that I bought			
			from Heritage			
			for B. Fazio			
				TOTAL		
RECEIVED BY						

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION <i>Cinci</i>		PHONE		DATE	
NAME <i>Heritage</i>					
ADDRESS <i>Dallas TX</i>					
CASH		CONSIGNMENT		CHECK #	
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE AMOUNT
11		20	St PCRS 65		3700 40700
1	04-2	5	Ind PCRS 63		3700 3700
2		10	Ind PCRS 63		1975 3950
1		10	Lis PCRS 63		2375 2375
14		20	Lis PCRS 63		1550 21700
2		10	Ind PCRS 64		6350 12700
1		20	Lis PCRS 64		<del>12750</del>
9		20	St PCRS 63		930 17670
1		20	St PCRS 64	Mix	1650
1		20	Lis PCRS 63	Mix	1550
					105995
RECEIVED BY:				TOTAL	

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION <i>Cinci</i>		PHONE		DATE <i>7-15-88</i>	
NAME <i>Heritage</i>					
ADDRESS <i>311 MARKET St Dallas, TX 7520</i>					
CASH		CONSIGNMENT		CHECK #	
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE AMOUNT
13		20	Lis S-63		1550 20150
8		2.5	Ind PCRS 64		3525 28200
1	32	10	Ind PCRS 63		1975 1975
1	32	10	Ind PCRS 64		6350 6350
1	04	20	Lis PCRS 65		10700
2	05	2.5	Lis PCRS 65		6450 12900
1	03	2.5	Lis PCRS 64		3275 3275
1	26	2.5	Ind PCRS 63		1310 1310
1	08	5	Ind PCRS 63		3700 3700
1	10-3	5	Ind PCRS 63		3700 3700
1		20	St		92260
RECEIVED BY:				TOTAL	

[illegible]

LOCATION		PHONE		DATE		
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
1	78-cc	\$	PCGS 65			3400
1	79-0	\$	/ 65			6725
3	78-s	\$	✓ ✓		680	2040
1	81	\$	✓ ✓			2675
1	81-cc	\$	✓ ✓			910
1	82	\$	✓ ✓			2525
1	82-cc	\$	✓ ✓			925
3	83	\$	✓ ✓		715	2145
3	85-cc	\$	✓ ✓		1450	4350
1	90-s	\$	✓ ✓			2325
1	91-s	\$	✓ ✓			2775
1	96	\$	✓ ✓			980
5	97	\$	✓ ✓		1685	8425
1	97-s	\$	✓ ✓			1800
1	98	\$	✓ ✓			1075
RECEIVED BY:				TOTAL		43075

1 PROOF OF SERVICE BY MAIL

2 I am employed in the County of Orange, State of  
3 California. I am over the age of 18 and not a party to the  
4 within action. My business address is that of Latham & Watkins  
as set forth on the first page of the document to which this  
Proof is attached.

5 I served the below listed document(s) described as:

6 Request to Take Judicial Notice in Support of Motion to  
Dismiss and for Sanctions

7 on October 20, 1988 on all other parties to this action by  
8 placing a [xx] true copy [ ] original of the above document  
enclosed in a sealed envelope addressed as follows:

9 William J. Reifman, Esq.  
10 Mayer, Brown & Platt  
355 S. Grand Avenue  
11 Los Angeles, CA 90071

Robert M. Ross  
Klass, Helman & Ross  
10850 Wilshire Blvd., Suite 500  
Los Angeles, CA 90024

12 [ ] I placed such envelope with postage thereon fully  
13 prepaid in the United States Mail at \_\_\_\_\_,  
California.

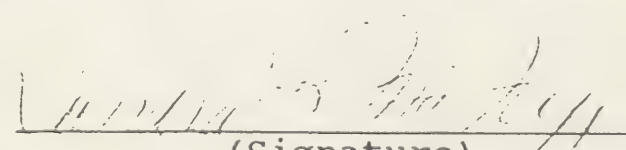
14 [xx] I placed such envelope with postage thereon fully  
15 prepaid for deposit in the United States mail in accordance with  
16 the office practice of Latham & Watkins for collecting and  
17 processing correspondence for mailing with the United States  
18 Postal Service. I am familiar with the office practice of  
19 Latham & Watkins for collecting and processing correspondence  
20 for mailing with the United States Postal Service, which  
21 practice is that when correspondence is deposited with the  
22 Latham & Watkins personnel responsible for delivering  
23 correspondence to the United States Postal Service, such  
24 correspondence is delivered to the United States Postal Service  
25 that same day in the ordinary course of business.

26 Executed on October 20, 1988, at Costa Mesa,  
27 California.

28 [ ] (State) I declare under penalty of perjury that the  
above is true and correct.

[xxx] (Federal) I declare that I am employed in the office of a  
member of the bar of this court at whose direction the service  
was made.

\_\_\_\_\_  
Sandra L. McNeff

  
\_\_\_\_\_  
(Signature)

DIST.	OFF.	DOCKET YR. NUMBER		FILING DATE MO. DAY YR.			J	N/S	O	D DEF	R 23	S DEMAND	JUDGE/ MAG. NO.	COUNTY	JURY DEM.	DOCKET YR. NUMBER	
0973	8	88	0556	09	26	88	3	470	1			Nearest \$1,000	J 7342 M	06001	Y	88	0556

TITLE:

FERNANDEZ-V-HALL

CAUSE:

CMPLT/R I C O 1811961 JSI.(RWRX)

# 1 PLA

GARY FERNANDEZ

# 2 DFT

DAVID HALL

# 3 DFT

PROFESSIONAL COIN GRADING SERV

# 4 DFT

STEVEN IVY

# 5 DFT

JAMES HALPERIN

# 6 DFT

HERITAGE CAPITAL CORP

# 7 DFT

DOES 1-20

TIME STUDY CASE

Record Time Spent by Judge or Magistrate

ROBERT H ROSS

KLASS HELMAN & ROSS

10850 WILSHIRE BLVD STE 500

LOS ANGELES CA 90024

(213)277-2224

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	
				JS-6	

LODGED ORDER

**FILED**

4:28 PM  
OCT 20 1988

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA OFFICE

BY *WBS* DEPUTY

LATHAM & WATKINS  
Robert E. Currie  
Peter J. Wilson  
650 Town Center Drive, 20th Floor  
Costa Mesa, California 92626  
  
(714) 540-1235  
  
Attorneys for Defendants  
David Hall and Professional  
Coin Grading Service

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

GARY FERNANDEZ,  
  
Plaintiff,  
  
v.

DAVID HALL; PROFESSIONAL COIN  
GRADING SERVICE, a California  
corporation; STEVEN IVY;  
JAMES HALPERIN; HERITAGE CAPITAL  
CORPORATION, a Texas corporation;  
and DOES 1 through 20, inclusive,  
  
Defendants.

) Case No. CV 88-556 JSL(RWRx)  
)  
) NOTICE OF MOTION AND MOTION  
) BY DEFENDANTS DAVID HALL AND  
) PROFESSIONAL COIN  
) GRADING SERVICE TO DISMISS  
) COMPLAINT; TO STRIKE  
) CERTAIN PORTIONS THEREOF AND  
) FOR RULE 11 SANCTIONS  
)  
) [JOINT MEMORANDUM OF  
) POINTS AND AUTHORITIES  
) AND REQUEST FOR JUDICIAL  
) NOTICE FILED CONCURRENTLY  
) HEREWITH UNDER SEPARATE  
) COVERS]

Date: November 14, 1988 ✓  
Time: 1:00 p.m.  
Dept.: Courtroom 2

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

Notice is hereby given that on Monday, November 14,  
1988, at 1:00 p.m., or as soon thereafter as counsel may be  
heard, in the courtroom of the Honorable J. Spencer Letts,  
located at 751 West Santa Ana Boulevard, Santa Ana, California  
92701, defendants David Hall and Professional Coin Grading  
Service ("Defendants") will move the Court pursuant to Rule

4

1 12(b)(6) of the Federal Rules of Civil Procedure for an Order  
2 Dismissing the Complaint; for an alternative Order striking  
3 paragraph 27 of the Complaint, and for sanctions.

4 This Motion is made on the following grounds:

5 1. Plaintiff has failed to plead the allegations of  
6 his RICO claim, Count One of the Complaint, with particularity  
7 and has failed to allege a pattern of racketeering activity as  
8 required by 18 U.S.C. Section 1962. The pendent state claims  
9 should be dismissed if the RICO claim is dismissed.

10 2. Plaintiff's claim for equitable relief must be  
11 stricken since private equitable relief is not available to a  
12 private plaintiff in a RICO claim.

13 3. Plaintiff's RICO claim is not well-grounded in  
14 fact or law and thus sanctions, including attorney's fees, are  
15 appropriate.

16 This motion is based upon this Notice, the  
17 concurrently filed Joint Memorandum of Points and Authorities,  
18 the concurrently filed Request for Judicial Notice, on all  
19 pleadings, papers, records and other material or information on  
20 file, or of which the Court may take judicial notice and on such  
21 other evidence or argument as may be submitted at or before the  
22 time the Motion is heard.

23 DATED: October 20, 1988

24 LATHAM & WATKINS

25 By:

Peter J. Wilson.  
Peter J. Wilson  
Attorneys for Defendants  
DAVID HALL and  
PROFESSIONAL COIN  
GRADING SERVICE

PROOF OF SERVICE BY MAIL

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is that of Latham & Watkins as set forth on the first page of the document to which this Proof is attached.

I served the below listed document(s) described as:

Notice of Motion and Motion by Defendants David Hall and Professional Coin Grading Service to Dismiss Complaint; to Strike Certain Portions Thereof and for Rule 11 Sanctions

on October 20, 1988 on all other parties to this action by placing a [xx] true copy [ ] original of the above document enclosed in a sealed envelope addressed as follows:

William J. Reifman, Esq.  
Mayer, Brown & Platt  
355 S. Grand Avenue  
Los Angeles, CA 90071

Robert M. Ross  
Klass, Helman & Ross  
10850 Wilshire Blvd., Suite 500  
Los Angeles, CA 90024

[ ] I placed such envelope with postage thereon fully prepaid in the United States Mail at \_\_\_\_\_, California.

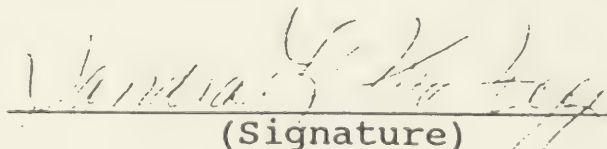
[xx] I placed such envelope with postage thereon fully prepaid for deposit in the United States mail in accordance with the office practice of Latham & Watkins for collecting and processing correspondence for mailing with the United States Postal Service. I am familiar with the office practice of Latham & Watkins for collecting and processing correspondence for mailing with the United States Postal Service, which practice is that when correspondence is deposited with the Latham & Watkins personnel responsible for delivering correspondence to the United States Postal Service, such correspondence is delivered to the United States Postal Service that same day in the ordinary course of business.

Executed on October 20, 1988, at Costa Mesa, California.

[ ] (State) I declare under penalty of perjury that the above is true and correct.

[xxx] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
Sandra L. McNeff

  
(Signature)

1 MAYER, BROWN & PLATT  
2 WILLIAM J. REIFMAN  
3 RICHARD A. MCDONALD  
4 355 South Grand Avenue  
Suite 3800  
Los Angeles, California 90071  
(213) 229-9500

5 Attorneys For Defendants  
6 HERITAGE CAPITAL CORPORATION,  
7 STEVEN IVY, AND JAMES HALPERIN

FILED  
OCT 20 1988  
CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA, CALIF. DEPUTY

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

12 GARY FERNANDEZ,  
13 Plaintiff,

14 vs.

15 DAVID HALL; PROFESSIONAL COIN )  
16 GRADING SERVICE, a California )  
17 corporation; STEVEN IVY; JAMES )  
18 HALPERIN; HERITAGE CAPITAL )  
19 CORPORATION, a Texas )  
20 corporation; and DOES 1 )  
21 through 20, inclusive, )  
22 Defendants. )

CASE NO. SA 88-0556 (JSL)

STIPULATION AND ORDER  
EXTENDING TIME TO RESPOND TO  
PLAINTIFF'S COMPLAINT

[Fed. R. Civ. P. 6(b) and  
Local Rule 7.3.2]

21 IT IS HEREBY STIPULATED by and between plaintiff Gary  
22 Fernandez and defendants Heritage Capital Corporation  
23 ("Heritage"), Steven Ivy and James Halperin, through counsel,  
24 that the time for Defendants Steven Ivy and James Halperin to  
25 respond to the complaint is extended from October 21, 1988 to  
26 November 1, 1988, the same day on which Heritage will file its  
27 response to the Complaint.  
28

1 This stipulation is entered into because the summons and  
2 complaint were served on these defendants on different dates but  
3 the parties wish to promote judicial economy by allowing the  
4 Defendants to answer on the same day because they are represented  
5 by the same counsel.

6 Dated: October 18, 1988

MAYER, BROWN & PLATT  
WILLIAM J. REIFMAN  
RICHARD A. MCDONALD

9  
10 By: William J. Reifman  
William J. Reifman

11 Attorneys for Defendants  
12 HERITAGE CAPITAL CORPORATION,  
STEVEN IVY AND JAMES HALPERIN

13 Dated: October 18, 1988

KLASS, HELMAN & ROSS  
ROBERT M. ROSS

15  
16 By: Robert M. Ross  
Robert M. Ross  
17  
18 Attorney for Plaintiff  
GARY FERNANDEZ

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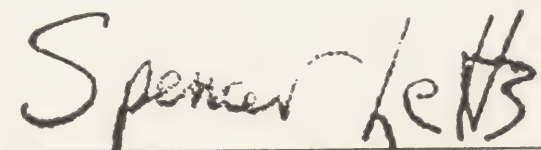
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ORDER

Pursuant to stipulation, and good cause appearing therefore,

IT IS ORDERED that the time for defendants Steven Ivy and James Halperin to respond to plaintiff Gary Fernandez's complaint in Case No. SA 88-0556 is extended from October 21, 1988 to November 1, 1988.

Dated: October 20, 1988



---

Honorable J. Spencer Letts  
United States District Court

# VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing

and know its contents.

## ☒ CHECK APPLICABLE PARAGRAPH

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner ☐ a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on, 19, at California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

## ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT (other than summons and complaint)

Received copy of document described as

on 19.

Type or Print Name

Signature

## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 355 South Grand Avenue, Suite 3800, Los Angeles, CA 90071

On October 18, 1988 I served the foregoing document described as STIPULATION AND ORDER EXTENDING TIME TO RESPOND TO PLAINTIFF'S COMPLAINT

on all interested parties

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Robert M. Ross, Esq.  
Klass, Helman & Ross  
10850 Wilshire Blvd., Suite 500  
Los Angeles, CA 90024

Peter J. Wilson, Esq.  
Latham & Watkins  
650 Town Center Drive, Suite 2000  
Costa Mesa, CA 92626

☒ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

Executed on October 18, 1988 at Los Angeles, California.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on, 19, at, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Janet Stober

Type or Print Name

Signature

DIST.	OFF.	DOCKET YR. NUMBER	FILING DATE MO. DAY YR.	J	N/S	O	D PFT DEF	R 23	\$ DEMAND	JUDGE/ MAG. NO.	COUNTY	JURY DEM.	DOCKET YR. NUMBER
0973	8	88-0556	09/26/88	3	4/0	1			Nearest \$1,000	J 7342 M	06001	Y	88-0556
TITLE: FERNANDEZ-V-HALL													
CAUSE: COMPLAINT TO C O 18:1961 JSL(RWRX)													
TIME STUDY CASE Record Time Spent by Judge or Magistrate													
# 1 PLA GARY FERNANDEZ													
ROBERT H ROSS KLASS HELMAN & ROSS 10850 WILSHIRE BLVD STE 500 LOS ANGELES CA 90024 (213)277-2224													
# 2 DEF DAVID HALL													
# 3 DEF PROFESSIONAL COIN GRADING SERV													
# 4 DEF STEVEN IVY													
# 5 DEF JAMES HALPERIN													
# 6 DEF HERITAGE CAPITAL CORP													
# 7 DEF DOES 1-20													
<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS		FILING FEES PAID								STATISTICAL CARDS			
		DATE		RECEIPT NUMBER				C.D. NUMBER		CARD		DATE MAILED	
										JS-5			
										JS-6			

UNITED STATES DISTRICT COURT DOCKET

DC 111 (Rev. 7/82)

DATE	NR.	SA CV 88-0556-JSL(RWRx) PROCEEDINGS
9/26/88	cc	1. Compl't. Issd Summs. Case maybe ref'd to Mag Rose for dscvry.
10/20/88	cc	2. STip & Ord that the ti for defts Steven Ivy & James Halperin to respon to pltf's complt is extend frm 10/21/88 to 11/1/88. 3. ORD that all cnsl in this actn shall appear for initial, infrml conf @ 3:30PM 11/21/88. 4. Ntc of mtn & mtn by defts David Hall & Professional Coin Grading Service to dism complt; to strike certain portions thereof & for Rule 11 sanctions. 11/14/88 @ 1PM. defts. 5. Req to take judicial ntc in spprt of mtn to dismiss & for sanctns 11/14/88 @ 1PM. 6. Joint memo of defts David Hall & Professional Coin Grading Service in spprt of mtn to dismiss complt; mtn to strike & for Ruel 11 Sanctions 11/14/88 @ 1PM.
10/26/88	cc	7. APP & ORD allowing Armen R. Vartian to appear in a specific case designating William J. Reifman as local consl. deft.

NAME, ADDRESS AND TELEPHONE NUMBER  
OF ATTORNEY(S)

MAYER, BROWN & PLATT  
WILLIAM J. REIFMAN  
RICHARD A. MCDONALD  
355 South Grand Avenue, Suite 3800  
Los Angeles, California 90071  
(213) 229-9500

LODGE

OCT 25 1988

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ORIGINAL  
FILED

OCT 26 1988

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY CASE NUMBER  
CLERK'S OFFICE

GARY FERNANDEZ,

PLAINTIFF(S)

SA  
CV- 88-0556 JSL (RWRX)

DEPUTY

vs.

DAVID HALL; PROFESSIONAL COIN GRADING SERVICE,  
a California corporation; STEVEN IVY; JAMES  
HALPERIN; HERITAGE CAPITAL CORPORATION, a  
Texas corporation; and, DOES 1 through 20, inclusive,

DEFENDANT(S)

APPLICATION OF NON-RESIDENT  
ATTORNEY TO APPEAR IN A SPECIFIC CASE

I, Armen R. Vartian, hereby apply to the Court under Local Rule 2.3.  
for permission to appear and participate in the above-entitled action on behalf of defendant  
Heritage Capital Corporation, Steven Ivy, and James Halperin. I am employed as Vice  
President and General Counsel with Heritage Capital Corporation and Steven Ivy and James  
Halperin are officers of Heritage Capital Corporation  
whose offices are located at 250 West 57th Street, Suite 1216, New York, New York 10019.

I am a member in good standing and eligible to practice before the following courts:

TITLE OF COURT

State Bar of New York

U.S. District Court, Southern Dist., New York

U.S. District Court, Eastern Dist., New York

Circuit Court of Appeals for the Fifth and Eleventh Circuits

Circuit Court of Appeals for the Second Circuit

Circuit Court of Appeals for the First Circuit

DATE OF ADMISSION

March, 1982

April, 1982

April, 1982

April, 1984

August, 1984

September, 1987

I am not a resident of, nor am I regularly employed, engaged in business, professional or other  
activities in the State of California. I am not currently suspended or disbarred in any court

I have concurrently, or within the year of this application, made pro hac vice applications to  
this Court in the following actions:

NUMBER	TITLE OF ACTION	DATE OF APPLICATION GRANTED OR DENIED*
--------	-----------------	---

None		

EXPLAIN

I designate William J. Reifman of the law firm of  
Mayer, Brown & Platt whose address and telephone number is 355 South  
Grand Avenue, Suite 3800, Los Angeles, California 90071

and who is a member of the Bar of this Court and maintains an office in this District for the  
practice of law, as the attorney with whom the Court and opposing counsel may readily communicate  
regarding the conduct of this case, and upon whom papers may be served.

(see reverse side)

I declare under penalty of perjury that the foregoing is true and correct and that I have read the Local Rules of Practice, the Local Criminal Rules, the F.R.Civ.P., the F.R.Crim.P. and the F.R. Evidence in their entirety.

DATED: October 20, 1988

Amos R. Vartia  
(APPLICANT)

My residence address is 227 Central Park West, New York, New York 10024

CONSENT OF DESIGNEE

I hereby consent to the foregoing designation.

DATED: October 24, 1988

William R. Vartia  
(DESIGNEE)

ORDER

IT IS ORDERED that the applicant herein may appear as requested in the ~~above~~-entitled case.

DATED: October 24, 1988

Spencer Leib  
UNITED STATES DISTRICT JUDGE

CAUTION: NON-RESIDENT ATTORNEYS APPEARING BEFORE A MAGISTRATE MUST RE-APPLY FOR APPEARANCE BEFORE THE DISTRICT COURT JUDGE.

APPLICATION OF NON-RESIDENT ATTORNEY  
TO APPEAR IN A SPECIFIC CASE

# VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing

and know its contents.

## ☒ CHECK APPLICABLE PARAGRAPH

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner ☐ a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on , 19 , at California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

## ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT

(other than summons and complaint)

Received copy of document described as

on 19 .

Type or Print Name

Signature

## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 355 South Grand Avenue, 38th Floor, Los Angeles, California 90071

On Oct. 25 1988, I served the foregoing document described as Application of Non-Resident Attorney To Appear In A Specific Case

on all interested parties.

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Robert E. Currie  
Latham & Watkins  
650 Town Center Drive  
20th Floor  
Costa Mesa, California 92626

Robert M. Ross  
Klass, Helman & Ross  
10850 Wilshire Boulevard  
Suite 500  
Los Angeles, California 90024

☒ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

Executed on October 25, 1988, at Los Angeles, California.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on , 19 , at , California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Robert J. Lozano

Type or Print Name

Robert J. Lozano  
Signature

1 ROBERT M. ROSS  
2 KLASS, HELMAN & ROSS  
3 10850 Wilshire Blvd., Suite 500  
4 Los Angeles, California 90024  
5 213/277-2224

6 Attorneys for Plaintiff Gary Fernandez

7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11 GARY FERNANDEZ,	)	Case No. SA CV88-556 JSL (RWRx)
	)	
12 Plaintiff,	)	SECOND AMENDED COMPLAINT FOR
	)	DAMAGES FOR VIOLATION OF 18
13 v.	)	U.S.C. §1961 (CIVIL RICO; FOR
	)	GOODS SOLD AND DELIVERED;
14 DAVID HALL; PROFESSIONAL COIN	)	BREACH OF ORAL CONTRACT; INTEN-
15 GRADING SERVICE, a California	)	TIONAL INFLICTION OF EMOTIONAL
16 corporation; STEVEN IVY;	)	DISTRESS; NEGLIGENT INFLICTION
17 JAMES HALPERIN; HERITAGE	)	OF EMOTIONAL DISTRESS;
18 CAPITAL CORPORATION, a Texas	)	CONVERSION; CLAIM AND DELIVERY;
19 corporation; and DOES 1	)	AND PENDENT STATE COMMON COUNT
through 20, inclusive,	)	CLAIMS
	)	
20 Defendants.	)	[DEMAND FOR JURY TRIAL]

21 Plaintiff alleges:

22 JURISDICTION AND VENUE

23 1. This action arises under 18 U.S.C. Sections 1961 and  
24 1962 and pendant state claims as hereinafter more fully alleged.  
25 This court has jurisdiction under and by virtue of 18 U.S.C.  
26 Section 1961 et seq.

27 2. Venue is founded in this judicial district upon 18  
28 U.S.C. Section 1965(a) as the place of residence of defendant David  
Hall is in this district, as well as this being the district in

1 which defendant Professional Coin Grading Service has its corporate  
2 offices, where plaintiff's coins have been secreted, and is a  
3 district within which Heritage Capital Corporation does business.  
4

5 PARTIES

6 3. At all times herein mentioned, plaintiff Gary Fernandez  
7 was and now is, a citizen of the United States, and a resident of  
8 the State of California, County of Alameda, and at all times herein  
9 mentioned was doing business throughout the state of California and  
10 the United States as a rare coin dealer.

11 4. Plaintiff is informed and believes, and thereon alleges,  
12 that Professional Coin Grading Service (hereinafter referred to as  
13 "PCGS") is, and at all times herein mentioned was, a California  
14 corporation, with its principal place of business in the County of  
15 Orange, City of Newport Beach, State of California. Plaintiff is  
16 further informed and believes, and thereon alleges, that said  
17 corporation does business throughout the United States and is an  
18 enterprise within the meaning of 18 U.S.C. Section 1961(4).

19 5. Plaintiff is informed and believes, and thereon alleges,  
20 that defendant David Hall is a person whose residence is in the  
21 City of Newport Beach, County of Orange, State of California.

22 6. Plaintiff is informed and believes, and thereon alleges,  
23 that Heritage Capital Corporation (hereinafter referred to as  
24 "Heritage") is a corporation organized in the State of Texas and  
25 doing business throughout the State of California, including  
26 Newport Beach, California, and that Heritage is an enterprise  
27 within the meaning of 18 U.S.C. Section 1961(4).

28 7. Plaintiff is informed and believes, and thereon alleges

1 that defendants Steven Ivy and James Halperin are now, and at all  
2 times herein mentioned were, persons who are residents of the State  
3 of Texas.

4 8. Plaintiff is ignorant of the true names and capacities  
5 and identities of defendants DOES 1 through 20 and therefore sues  
6 said defendants by such fictitious names, and will ask leave of  
7 court to amend this complaint and set forth the true names and  
8 capacities of said defendants when same are ascertained.

9 9. Plaintiff is informed and believes, and thereon alleges,  
10 that each of the Doe defendants were, and are, in some way liable  
11 for the losses hereinafter alleged to plaintiff, and plaintiff will  
12 amend this complaint to set forth the true nature of the acts  
13 and/or omissions of each said Doe defendant, proximately causing  
14 said loss to plaintiff when said loss is ascertained.

15 10. Plaintiff is informed and believes, and thereon alleges,  
16 that each of the individual defendants herein, including defendants  
17 Does 1 through 20 were and are the agents, employees or  
18 representatives of Hall, Halperin and/or Ivy, and in doing the  
19 things herein alleged, were acting within the scope and agency of  
20 said employment.

21 11. Plaintiff is informed and believes, and thereon alleges  
22 that each and all of the defendants herein, in doing the act or  
23 actions herein alleged, were acting in consort with, and as the  
24 agents, employees, or representatives of each and all of their co-  
25 defendants and in furtherance of a conspiracy between Hall,  
26 Halperin, Ivy & Does 1 through 20.



1 is accepted as being the same as any other 1892 MS. 64 \$5.00  
2 "Liberty". The buyer doesn't see the coin until after the  
3 transaction is made and the buyer's check is mailed.

4 15. Plaintiff, having been a member of PCGS and a subscriber  
5 to the "ANE" wire service, is informed and believes that the vast  
6 majority of transactions in PCGS graded coins are conducted through  
7 the use of the "ANE" wire service, with payment for the coin sent  
8 through the U.S. Mail.

9 16. Plaintiff is informed and believes, and thereon alleges  
10 that Heritage Capital Corporation is an enterprise engaged in the  
11 business of buying and selling coins within the numismatic industry  
12 and through the United States mails, among other methods.  
13 Plaintiff is further informed and believes and thereon alleges that  
14 the price paid for or received by Heritage is, in part, determined  
15 by the grade (appraisal) of any specific coin being bought or sold  
16 by it. Plaintiff is further informed and believes and thereon  
17 alleges that HCC was a member of PCGS and used, on an almost  
18 exclusive basis, PCGS to grade (appraise) coins sold by said HCC.

19 17. Plaintiff is informed and believes and thereon alleges  
20 that defendants Hall, Ivy and Halperin did form an association and  
21 conspiracy to engage in unlawful acts and violate plaintiff's  
22 rights in an attempt to put plaintiff out of business by the  
23 conduct hereinafter expressly set forth.

24 PATTERN OF RACKETEERING ACTS

25 18. Plaintiff is informed and believes and thereon alleges  
26 that defendants Ivy, Halperin and Hall have engaged in two or more  
27 racketeering acts as prohibited by 18 U.S.C. 1961, et seq. as  
28 follows:

1 (a) Within ten years last past, to wit, in or about  
2 October of 1987, Hall, through an agent, DOE XX violated 18 U.S.C.  
3 Sections 471, 472, and 473 and USC 1341 relating to counterfeiting  
4 in that Hall did transport through interstate mail, for the purpose  
5 of passing same off to Alan Hagar as authentic, a 1892 \$5.00  
6 "Liberty" United States coin being a counterfeit coin. Plaintiff  
7 is informed and believes that Hall knew at the time that said coin  
8 was counterfeit;

9 (b) Within ten years last past, to wit, in or about  
10 November, 1987, plaintiff is informed and believes that defendant  
11 Hall violated 18 U.S.C. Sections 471, 472, and 473 and 18 USC 1341  
12 relating to counterfeiting in that Hall did transport through or  
13 cause to be transported through interstate mail, (in violation of 18  
14 U.S.C. 1341) for the purpose of passing same of to Alan Hagar as an  
15 authentic United States Coin, a 1925 D "Indian" counterfeit coin.  
16 Plaintiff is informed and believes that Hall knew at the time that  
17 said coin was counterfeit;

18 (c) Plaintiff is informed and believes that the acts of  
19 Hall as identified in Paragraph 18 (a) and (b) hereof were part of  
20 an effort to put Alan Hagar out of business by discrediting said  
21 Alan Hagar and his competing appraisal and grading business known  
22 as "ACCUGRADE". In furtherance of the object of putting  
23 "ACCUGRADE" out of business, plaintiff is informed and believes  
24 that defendant Hall did, in violation of 18 U.S.C. 1951(a), in or  
25 about October of 1987, physically, threaten the person of Alan  
26 Hagar, both personally and through Does XVIII and XIX by threats of  
27 physical injury in an attempt to obstruct and interfere with Alan  
28 Hagar's business "Accugrade" as a competitor in interstate commerce

1 with defendant Hall's Company, PCGGS, Inc., a corporation,  
2

3 19. Plaintiff is informed and believes and thereon alleges  
4 that as and each of them have engaged in the above pattern of acts  
5 with respect to plaintiff as they had with respect to Alan Hagar  
6 for the purpose of putting plaintiff out of business.

7 20. Within ten years last past, to wit, in or about July  
8 1988, plaintiff is informed and believes that defendants Hall, Ivy  
9 and Halperin conspired to, and did violate 18 U.S.C. Sections 2314  
10 and 2315 relating to interstate transportation of stolen property  
11 in that defendants Hall, Ivy and Halperin caused the coins  
12 identified in Exhibit "A" hereof, received by Heritage (pursuant to  
13 the theft by fraud herein alleged in paragraph 21 hereof) to be  
14 transported from Ohio to New York and/or California and/or Texas;

15 21. Plaintiff is informed and believes that within ten  
16 years last past, to wit, July of 1988, defendant Halperin, acting  
17 on behalf of the conspiracy alleged in Paragraph 17 hereof,  
18 physically threatened Brian Fazio (who acted as an agent for  
19 Plaintiff) if Fazio continued to do business with plaintiff, which  
20 said physical threat constituted a violation of 18 U.S.C. §1951;

21 COUNT ONE

22 (RICO)

23 22. Plaintiff hereby incorporates by reference, paragraphs  
24 1 through 21 as if fully set forth herein.

25 23. Plaintiff is informed and believes, and thereon  
26 alleges that defendants Hall, Ivy, & Halperin and Does 2 through  
27 10, inclusive, conspired to commit and committed mail fraud in  
28 violation of 18 U.S.C. Section 1341, in that they took coins and  
inventory of plaintiff through the use of a scheme and artifice

1 with the intent to obtain plaintiff's property and permanently  
2 deprive plaintiff thereof, through the use of the United States  
3 Mails, by deceit and through making the following material  
4 misrepresentations of fact:

5 (i) On or about July 14, 1988, defendants  
6 Halperin and Ivy, and Does 2 through 5, inclusive, represented to  
7 plaintiff and plaintiff's agent Brian Fazio, that they would pay  
8 the fair market price of \$807,378 as agreed upon by the parties and  
9 set forth in Exhibit "A" hereof for gold and silver coins;

10 (ii) That defendants Halperin, Ivy and Does 2  
11 through 5, inclusive, represented that they were acquiring said  
12 coins for, and on behalf of the enterprise known as Heritage  
13 Capital Corporation, in an arms length business transaction common  
14 within the numismatic industry;

15 (iii) That plaintiff would be paid the agreed upon  
16 sum of \$807,374 for the specified coins, payment to be mailed  
17 through the United States mails.

18 24. The truth, known to defendants Halperin, Ivy and Hall,  
19 but unknown to plaintiff, was that:

20 (i) Defendants Ivy, Halperin, and Does 2 through  
21 5, inclusive, acting in association and conspiracy with defendants  
22 Hall and Does 6 through 10, intended to acquire, without payment  
23 therefor, all of plaintiff's coin inventory with the intent to  
24 permanently deprive plaintiff thereof without payment therefor, for  
25 the purpose of putting plaintiff out of business.

26 (ii) That defendants Halperin, Ivy, and Does 2  
27 through 5, inclusive, acting as directors, officers, agents and  
28 employees of Heritage, and acting at all times within the scope of

1 such agency and employment, sought to deprive plaintiff of his  
2 property without any compensation whatsoever, and intended to and,  
3 in fact did, effect a theft of plaintiff's property having an  
4 approximate value at the time of said theft of the sum of \$807,374.

5 25. That after taking possession of plaintiff's coins,  
6 defendants Hall, Ivy and Halperin first violated 18 U.S. C. 1341 by  
7 mailing through United States mail and thereafter dishonoring check  
8 for payment for said coins and thereafter violated Sections 2314  
9 and 2315 by transporting said coins from Ohio to the states of New  
10 York, Texas and California;

11 26. Plaintiff is informed and believes that within ten years  
12 last past, to wit, on or about July 10, 1988, defendants Ivy and  
13 Halperin conspired to commit and committed mail fraud in violation  
14 of 18 U.S.C. 1341 in that they caused HCC to obtain property of  
15 Plaintiff being Gold and Silver coins having a value of \$84,310 and  
16 agreeing to pay for same by check sent through the United States  
17 mail and thereafter caused said HCC to check to be dishonored,  
18 effecting the scheme to obtain Plaintiff's property through the use  
19 of the United States mails.

20 27. Plaintiff is informed and believes and thereon alleges  
21 that all acts of defendants and each of them, was done with intent  
22 to defraud plaintiff of his property.

23 28. Plaintiff is informed and believes and thereon alleges  
24 that on or about July 10, 1988 defendants Ivy and Halperin  
25 conspired to and did commit mail fraud in violation of 18 U.S.C.  
26 1341 in that they caused HCC to obtain property of plaintiff having  
27 a fair market value of \$84,310, being Gold and Silver coins and  
28 representing that same would be paid for by check sent through the

United States Mail.

29. Plaintiff is informed and believes, and thereon alleges that defendants Hall, Ivy, & Halperin and Does 2 through 10, inclusive, conspired to commit and committed mail fraud in violation of 18 U.S.C. Section 1341, in that they took coins and inventory of plaintiff through the use of a scheme and artifice with the intent to obtain plaintiff's property and permanently deprive plaintiff thereof, through the use of the United States Mails, by deceit and through making the following material misrepresentations of fact:

(i) On or about July 10, 1988, defendants Halperin and Ivy, and Does 2 through 5, inclusive, represented to plaintiff in a telephone conversation that HCC would pay the fair market price of \$84,310 as agreed upon by the parties for certain gold and silver coins.

(ii) That defendants Halperin, Ivy and Does 2 through 5, inclusive, represented that they were acquiring said coins for, and on behalf of the enterprise known as Heritage Capital Corporation, in an arms length business transaction common within the numismatic industry;

(iii) That plaintiff would be paid the agreed upon sum of \$84,310 for the coins, payment to be mailed through the United States mails.

(iv) Defendants Halperin, Hall and Ivy used interstate wire transmission in the form of a telephone conversation in furtherance of its scheme and artifice to obtain plaintiff's property without payment therefor in that, on or about July 10, 1988, prior to plaintiff's delivery of the coins referred

1 to in paragraph 29.(i) hereof, plaintiff received a call from an  
2 employee of HCC whom plaintiff is informed and believes and thereon  
3 alleges was acting at the express instructions of defendants  
4 Halprin and Ivy and who advised plaintiff that if plaintiff would  
5 send the coins that day, HCC would mail its check in payment  
6 therefor in the sum of \$84,310 concurrently.

7 (v) Had plaintiff not received the check for  
8 \$84,310 plaintiff would not have parted with the \$807,378 in gold  
9 and silver coins referred to in paragraph 23.(i) hereof.

10 (vi) Plaintiff is informed and believes that both  
11 the phone call and the mailing of the \$84,310 check, (later  
12 dishonored) were part of the scheme and artifice to deprive  
13 plaintiff of his property, both with respect to the \$84,310 worth  
14 of gold and silver coins referred to in paragraph 29. (i) hereof  
15 and with respect to the \$807,378 worth of gold and silver coins  
16 referred to in paragraph 23. (i) hereof in that plaintiff would not  
17 have sent \$807,378 worth of coins had not plaintiff received the  
18 check for \$84,310. Plaintiff further alleges that the \$807,378  
19 transaction referred to in paragraph 23. (i) occurred subsequent to  
20 receipt of the \$84,310 check and prior to notification that said  
21 check had been dishonored by HCC.

22 30. The truth, known to defendants Halperin, Ivy and Hall,  
23 but unknown to plaintiff, was that:

24 (i) Defendants Ivy, Halperin, and Does 2 through  
25 5, inclusive, acting in association and conspiracy with defendants  
26 Hall and Does 6 through 10, intended to acquire, without payment  
27 therefor, all of plaintiff's coin inventory with the intent to  
28 permanently deprive plaintiff thereof without payment therefor, for

1 the purpose of putting plaintiff out of business.

2 (ii) That defendants Halperin, Ivy, and Does 2  
3 through 5, inclusive, acting as directors, officers, agents and  
4 employees of Heritage, and acting at all times within the scope of  
5 such agency and employment, sought to deprive plaintiff of his  
6 property without any compensation whatsoever, and intended to and,  
7 in fact did, effect a theft of plaintiff's property having an  
8 approximate value at the time of said theft of the sum of \$807,374.

9 31. Plaintiff is informed and believes and thereon alleges  
10 that all acts of defendants and each of them, were done with the  
11 intent to defraud plaintiff of his property;

12 32. On or about July 14, 1988, plaintiff received a check  
13 sent through the United States Mail from HCC for the sum of \$84,310  
14 in payment for said Gold and Silver coins referred to in Paragraph  
15 28 and 29;

16 33. On or about July 14, 1988, plaintiff was informed that  
17 said check from HCC referred to in Paragraph 32; was dishonored by  
18 HCC.

19 (34). Plaintiff is informed and believes that defendants Ivy  
20 and Halperin, acting on behalf of the conspiracy alleged in  
21 Paragraph 17 hereof caused said check referred to in Paragraph 32  
22 and 33 to be dishonored pursuant to a scheme and artifice to  
23 deprive plaintiff of his property, all in violation of 18 U.S.C.  
24 1341.

25 35. If plaintiff had known the true facts to be as set forth  
26 in Paragraphs 30 above, plaintiff would not have engaged in the  
27 transaction hereinabove alleged, nor would plaintiff have delivered  
28 said coins to Ivy, Halperin or Does 1 through 5 nor would plaintiff

1 have accepted payment to be made by check sent through the United  
2 States mails.

3 36. Plaintiff was reasonable in assuming the veracity and  
4 truth of the statements of defendants Ivy, Halperin and Does 2  
5 through 5, as set forth in Paragraphs 23 (i), (ii) and (iii) and 29  
6 (i), (ii), (iii) in that said defendants and plaintiff have done  
7 business over a several year period in the past, and plaintiff has  
8 always been paid for coins purchased by HCC by check sent through  
9 the United States mail. Accordingly, plaintiff was justified in  
10 the assumption that HCC would continue to pay by check sent through  
11 the United States mail for gold and silver coins shipped to them at  
12 their specific request without thereafter dishonoring same.

13 37. As a direct and proximate result of the theft effected  
14 through fraud and device as hereinabove alleged, plaintiff has  
15 sustained damages in the sum of \$807,376 and \$84,310. Plaintiff  
16 seeks that said sum be tripled and that plaintiff be awarded  
17 Attorneys fees pursuant to 18 U.S.C. Section 1964.

18 38. By reason of the acts of racketeering and the pattern of  
19 racketeering as above alleged by defendants Ivy, Halperin, hall and  
20 Does 2 through 10, inclusive, and the conspiracy to commit he acts  
21 of theft from plaintiff and interstate transportation of those  
22 stolen goods as alleged in Paragraphs 23, 24, 29 and 30 plaintiff  
23 has been damaged in the sum of \$807,374 and \$84,310 accordingly,  
24 plaintiff seeks damages in said sum and that said sum be tripled  
25 and that defendants be required to pay plaintiff's attorney's fees.

26 39. Plaintiff is informed and believes, and thereon alleges  
27 that at all times herein mentioned defendants Ivy, Halperin and  
28 Does 2 through 5, inclusive, were the agents, employees, directors

1 or officers of the enterprise known as Heritage Capital Corporation  
2 and that in doing the things herein alleged were acting within the  
3 course and scope of said agency and employment, thus rendering  
4 Heritage liable for any damages attributable to said persons by  
5 reason of respondeat superior.

6 40. Plaintiff is informed and believes, and thereon alleges  
7 that Defendant Hall and defendants Does 6 through 10 were acting at  
8 all times herein mentioned as the agents, employees, officers or  
9 directors of the enterprise known as Professional Coin Grading  
10 Services and that at all times herein mentioned they were acting  
11 within the course and scope of said agency and employment;  
12 accordingly, plaintiff seeks damages from Professional Coin Grading  
13 Services on the basis of respondeat superior.

14  
15 COUNT TWO

16 (RICO - Insider Grading)

17 18 USC 1341 & 1343

18 41. Plaintiff incorporates by this reference each and every  
19 allegation contained in Paragraphs 1 through 24 hereof as though  
20 set forth hereat in full.

21 42. Plaintiff is informed and believes that defendant Hall,  
22 in conspiracy with defendant Ivy and Halperin and Does 11-17 have  
23 engaged in a scheme and artifice to manipulate the value of various  
24 coins fraudulently overgraded as hereinafter alleged in violation  
25 of 18 U.S.C. 1341 and 18 U.S.C. 1343 and effected said scheme by  
26 and through the use of the United States mail and through the use  
27 of any interstate wire system known as "ANE" specifically for  
28 members of PCGS in violation of 18 U.S.C. 1341 and 1343

1           43. Plaintiff is informed and believes, and thereon alleges,  
2 that Steven Ivy and James Halperin, by and through Heritage Capital  
3 Corporation, acquired an interest in (and are undisclosed  
4 principals and owners of) an equity interest in an entity known as  
5 the David Hall Group, which said group, plaintiff is informed and  
6 believes, is the owner (either equitably or legally) of an interest  
7 in Professional Coin Grading Services. Plaintiff is further  
8 informed and believes, and thereon alleges, that said interest was  
9 acquired in or about March of 1986 for a sum approximating \$2  
10 million dollars.

11           44. Subsequent to April of 1986, David Hall and Halperin and  
12 Ivy, conspired to and agreed to (and did in fact) commence a course  
13 of conduct pursuant to which favored members of the PCGS service  
14 obtained grades for coins submitted to PCGS for grading in excess  
15 of the true, accurate and fair grading for said coin, enabling the  
16 favored party to obtain, on the open market, and through the use of  
17 an interstate wire service known as "ANE" price for said coin far  
18 in excess of its actual fair market value.

19           45. Plaintiff is informed and believes, and thereon alleges,  
20 that such specific overgrading for insiders included overgrading  
21 for coins submitted to PCGS by Heritage Capital Corporation and  
22 others sued herein as Does 6-17, inclusive. Without limitation  
23 said overgraded coins include:

24           (a) PCGS Coin Number 7124745, a 1883 "O" originally  
25 graded M.S. 65; purchased by plaintiff on 9/29/88, resubmitted for  
26 grading by plaintiff through an agent and was regraded as MS.64  
27 said lower grading has adversely effected the value of said coin in  
28 an amount not yet ascertained. Plaintiff will amend to set forth

1 the amount when ascertained.

2 (b) PCGS Coin Number 7124740, originally graded M.S.  
3 65; purchased by plaintiff on 9/29/88, resubmitted to PCGS for  
4 grading by Plaintiff through an agent and which was regraded as MS.  
5 64 said lower grading has adversely effected the value of said coin  
6 in an amount not yet ascertained, plaintiff will amend to set forth  
7 the loss when it is known.

8 (c) PCGS Coin Number 8070958, originally graded M.S.  
9 64; purchased by plaintiff on 9/29/88, resubmitted to PCGS for  
10 grading by plaintiff through an agent and which was regraded as  
11 MS. 63 said lower grading has adversely effected the value of said  
12 coin in an amount not yet ascertained, plaintiff will amend to set  
13 forth the loss when it is known.

14 (d) PCGS Coin Number 9006886, originally graded M.S.  
15 64P/L; purchased by plaintiff resubmitted through an agent for  
16 regrading as MS. 63 said lower grading has adversely effected the  
17 value of said coin in an amount not yet ascertained, plaintiff will  
18 amend to set forth the loss when it is known.

19 (e) PCGS Coin Number 8041794, originally graded M.S.  
20 65; purchased by plaintiff on 9/29/88 resubmitted through an agent  
21 for regrading as MS. 64, said lower grading has adversely effected  
22 the value of said coin in an amount not yet ascertained, plaintiff  
23 will amend to set forth the loss when it is known.

24 (f) PCGS Coin Number 7110569, originally graded M.S.  
25 66; purchased by plaintiff on 9/29/88 resubmitted through and agent  
26 for regrading, it was returned ungradeable, said ungrading  
27 adversely effected the value of said coin in an amount not yet  
28 ascertained, plaintiff will amend to set forth the loss when it is

1 known.

2 (g) PCGS Coin Number 8035447, originally graded M.S.  
3 63; purchased by plaintiff on 9/29/88 resubmitted through an agent  
4 for regrading as MS. 64, said lower grading has adversely effected  
5 the value of said coin in an amount not yet ascertained, plaintiff  
6 will amend to set forth the loss when it is known.

7 (h) PCGS Coin Number 1278325, originally graded M.S.  
8 66; purchased by plaintiff on 9/29/88 resubmitted through an agent  
9 for regrading as MS. 64, said lower grading has adversely effected  
10 the value of said coin in an amount not yet ascertained, plaintiff  
11 will amend to set forth the loss when it is known.

12 (i) PCGS Coin Number 2250475, originally graded M.S.  
13 65; purchased by plaintiff on 9/29/88 resubmitted through an agent  
14 for regrading as MS. 64, said lower grading has adversely effected  
15 the value of said coin in an amount not yet ascertained, plaintiff  
16 will amend to set forth the loss when it is known.

17 (j) PCGS Coin Number 6077910, originally graded M.S.  
18 64; purchased by plaintiff on 9/29/88 resubmitted through an agent  
19 for regrading as MS. 63, said lower grading has adversely effected  
20 the value of said coin in an amount not yet ascertained, plaintiff  
21 will amend to set forth the loss when it is known.

22 (k) PCGS Coin Number 8046204, originally graded M.S.  
23 63; purchased by plaintiff on 9/29/88 resubmitted through an agent  
24 for regrading as MS. 62, said lower grading has adversely effected  
25 the value of said coin in an amount not yet ascertained, plaintiff  
26 will amend to set forth the loss when it is known.

27 (l) PCGS Coin Number 6077928, originally graded M.S.  
28 63; purchased by plaintiff on 9/29/88 resubmitted through an agent

1 for regrading as MS. 62, said lower grading has adversely effected  
2 the value of said coin in an amount not yet ascertained, plaintiff  
3 will amend to set forth the loss when it is known.

4 (m) PCGS Coin Number 6078039, originally graded M.S.  
5 63, purchased by plaintiff on 9/29/88 resubmitted through an agent  
6 for regrading as MS. 62, said lower grading has adversely effected  
7 the value of said coin in an amount not yet ascertained, plaintiff  
8 will amend to set forth the loss when it is known.

9 46. Plaintiff is further informed and believes, and thereon  
10 alleges, that by reason of said insider over grading, defendants  
11 Hall, Halperin, Ivy and Does 1 through 20, inclusive, engaged in  
12 and committed a violation of 18 U.S.C. §1961 in that said  
13 fraudulently graded coins were upon information and belief, placed  
14 into interstate commerce by United States mail by PCGS.

15 47. Plaintiff is informed and believes, and thereon alleges  
16 that after original grading said coins were placed into interstate  
17 commerce through the use of the United States mail and/or offered  
18 for sale through the United States mails and /or interstate wire  
19 service ("ANE") owned and operated by a wholly owned affiliate of  
20 PCGS and with full knowledge of PCGS. Said false and fraudulently  
21 graded coins were not of the values as represented, and all in  
22 violation of 18 U.S.C. §1341 and §1343.

23 48. Plaintiff is informed and believes, and thereon alleges,  
24 that the beneficiaries of said insider over grading and the  
25 resultant acts of mail and wire fraud occurring thereby are,  
26 without limitation, include William Spears, Joe Flynn, James  
27 Halperin, David Hall, the David Hall Group, Steven Ivy, Heritage  
28 Capital Corporation, and others sued herein as Does 11 - 17, the

1 exact names of which are presently unascertained by plaintiff who  
2 will ask leave of court to amend this complaint to set forth same  
3 when fully ascertained.

4 (i) PCGS has stated, and plaintiff believes that  
5 PCGS maintains lists, by coin number, of the submitter of each coin  
6 graded by PCGS and that PCGS knows specifically which coin was  
7 submitted by which PCGS member for grading and that defendants  
8 David Hall and PCGS has information superior to that of the  
9 plaintiff herein as to which specific insider submitted for grading  
10 each of the specific coins identified in paragraph 45. a. - m.  
11 hereof.

12 49. Plaintiff did acquire various such coins and did invest  
13 thousands of dollars, the exact amount of which is presently  
14 unknown but exceeds \$10,000.00. Plaintiff will ask leave of court  
15 to amend this complaint to state said amount, according to proof at  
16 the time of trial.

17 50. Plaintiff is informed and believes that as a result of  
18 the violations of 18 U.S.C. §1341, and §1343 sum not yet  
19 ascertained but exceeds \$10,000.00. Plaintiff will ask leave of  
20 court to amend this complaint when same are ascertained, or  
21 according to proof at time of trial.

22 51. Plaintiff will request that damages, when ascertained,  
23 be trebled as provided in 18 U.S.C. §1964, and that attorney fees  
24 be awarded.

25 FACTUAL ALLEGATIONS

26 PENDENT STATE CLAIMS

27 52. On or about July 14, 1988, and to and including July 20,  
28 1988, plaintiff delivered to Doe 2, acting for defendants Ivy,

1 Halperin, Hall and Heritage, gold and silver coins for an agreed  
2 upon sum of \$807,378. Said coins are itemized on Exhibit "A"  
3 hereof, and incorporated hereat by this reference.

4 53. Neither whole nor any part of said sum has been paid,  
5 and there is presently due, owing and payable from defendants Ivy,  
6 Halperin, Hall and Heritage to plaintiff the sum of \$807,378.

7 54. PCGS is a business enterprise presently operated through  
8 another entity, sued herein as Doe 1. Plaintiff is informed and  
9 believes that Doe 1 is owned by defendants Hall, Ivy and Halperin.  
10 The business of PCGS consists of the grading, by appraisal, of  
11 valuable coins, sealing the coin so appraised in an impenetrable  
12 plastic casing with its appraisal and guaranteeing the value of the  
13 coin to be as graded based upon the then current market value for  
14 such coins of said grade.

15 55. Plaintiff is informed and believes, and thereon alleges  
16 that each and all of the defendants herein, in doing the act or  
17 actions herein alleged, were acting in consort with, and as the  
18 agents, employees, or representatives of each and all of their co-  
19 defendants.

20 56. Plaintiff is informed and believes, and thereon alleges  
21 that Heritage was and is a mere sham and shell organized and  
22 operated as the alter ego of the individual defendants, Steven Ivy  
23 and James Halperin, for their personal benefit and advantage in  
24 that the individual defendants have at all times herein mentioned  
25 exercised total dominion and control over the corporate defendant  
26 and that the individual defendants were and are the only  
27 significant shareholders of the corporation. Plaintiff is informed  
28 and believes, and hereon alleges, that the individual defendants,

1 Steven Ivy and James Halperin, and the corporate defendant,  
2 Heritage have so intermingled their personal and financial affairs  
3 that the corporate defendant was and is the alter ego of the said  
4 individual defendants such that an injustice will result if the  
5 theoretical entity of the corporate defendant is not disregarded  
6 and the individual defendant's held liable for the indebtedness of  
7 the corporate defendant.

8         57. Plaintiff is further informed and believes, and thereon  
9 alleges that PCGS was and is a mere sham and shell organized and  
10 operated as the alter ego of the individual defendants David Hall,  
11 Steven Ivy and James Halperin for their personal benefit and  
12 advantage in that said individual defendants have at all times  
13 herein mentioned exercised total dominion and control over PCGS.  
14 Plaintiff is further informed and believes, and thereon alleges  
15 that the individual defendants Hall, Ivy and Halperin and the  
16 corporate defendant PCGS have so intermingled their personal and  
17 financial affairs that the corporate defendant PCGS was and is the  
18 alter ego of defendant David Hall and that an injustice will result  
19 of the theoretical entity of the corporate defendant is not  
20 disregarded and the individual defendant David Hall be held liable  
21 for the indebtedness of the corporate defendant.

22  
23                                 COUNT THREE

24                     (Against Defendants Heritage, Steven Ivy And  
25                     James Halperin For Goods Sold And Delivered)

26         58. Plaintiff hereby incorporates and realleges Paragraphs 1  
27 through 57 hereat as though fully set forth at this place.

28         59. Within two years, on or about July 14 through July 20,

1 1988, defendant Heritage as the alter ego of defendants Steven Ivy  
2 and James Halperin, became indebted to plaintiff for goods sold and  
3 delivered by plaintiff to defendants Heritage, Ivy and Halperin,  
4 who then and there agreed to pay the sum of \$807,378 for said  
5 goods.

6 60. Neither the whole nor any part of the above sum has been  
7 paid although demand therefore has been made and there is now due,  
8 owing and unpaid from defendants Heritage, Ivy and Halperin to  
9 plaintiff the sum of \$807,378, together with interest thereon at  
10 the rate of ten percent (10%) per annum from July 20, 1988.

11  
12 COUNT FOUR

13 (For Breach Of Oral Contract Against  
14 Defendants Heritage, Ivy and Halperin)

15 61. Plaintiff hereby incorporates and realleges Paragraphs 1  
16 through 60 hereat as though fully set forth at this place.

17 62. On or about July 20, 1988, plaintiff and defendants  
18 Heritage, Ivy and Halperin entered into an oral agreement whereby  
19 plaintiff agreed to sell and deliver antique gold and silver coins  
20 having an agreed value of \$807,378, and defendants Heritage, Ivy  
21 and Halperin agreed to pay the specific sum of \$807,378 for said  
22 coins.

23 63. Plaintiff has performed all conditions, covenants and  
24 promises required by him on his part to be performed in accordance  
25 with the terms and conditions of the contract and said coins were  
26 delivered to defendants Heritage, Ivy and Halperin by plaintiff  
27 through plaintiff's agent on or about July 20, 1988.

28 64. On or about July 20, 1988, defendants breached the oral

1 agreement by failing and refusing to pay the sum agreed upon,  
2 notwithstanding that defendants Heritage, Ivy and Halperin took  
3 possession of said gold and silver coins, and have acknowledged  
4 receipt thereof and now refuse to either forthwith pay the said  
5 agreed sum of \$807,378 or to return the coins, notwithstanding  
6 demand therefore having been made.

7         65. As a direct and proximate result of the breach of  
8 contract by defendants Heritage, Ivy and Halperin, plaintiff has  
9 been damaged in the sum of \$807,378 plus interest thereon at the  
10 legal rate of ten percent (10%) per annum from July 20, 1988 until  
11 said sum is paid.

12  
13  
14  
15  
16  
17                                 COUNT FIVE

18                 (For Slander Per Se Against Defendants Professional  
19 Coin Grading Service, David Hall, Steven Ivy, James  
20 Halperin, Heritage Capital Corporation,  
21                 And Does 1 Through 10, Inclusive)

22         66. Plaintiff hereby incorporates and realleges Paragraphs 1  
23 through 65 hereat as though fully set forth at this place.

24         67. Plaintiff is informed and believes, and thereon alleges  
25 that commencing on or about July 14, 1988 defendants David Hall,  
26 acting individually and for and on behalf of defendant PCGS and  
27 defendants Steven Ivy and James Halperin, acting individually and  
28 for and on behalf of defendant Heritage, and defendants Does 1

1 through 10, inclusive, published both by speaking and upon  
2 information and belief, in written form, the following words, of  
3 and concerning the plaintiff:

4 (a) Defendant Hall published allegations that PCGS's  
5 security system had been breached and that between two hundred and  
6 five hundred coins were allegedly being fraudulently sold as having  
7 been analyzed, graded and sealed by PCGS but which coins, in fact,  
8 were not analyzed, graded and sealed by PCGS.

9 (b) Defendant Hall, together with defendants Ivy and  
10 Halperin, and defendants Does 1 through 10 orally published an  
11 accusation associating plaintiff with said fraudulent coins  
12 essentially telling people with whom plaintiff did business, and  
13 who then owed plaintiff money, in connection with coins sold by  
14 plaintiff that such persons should not do business with plaintiff.  
15 Said named defendants further stated that plaintiff has been  
16 selling fraudulent coins.

17 (c) Defendant Hall, individually, and defendants Ivy  
18 and Halperin, did further orally publish statements accusing  
19 plaintiff of being under investigation by the FBI for criminal  
20 and/or fraudulent conduct relating to the sale of the fraudulent  
21 coins. Said defendants, along with defendants Does 1 through 10,  
22 further advised people with whom plaintiff was engaged in a  
23 business relationship not to pay plaintiff for any coins he has  
24 sold, not to do business with plaintiff because he was engaged in  
25 fraudulent coin sales and further stated that they were going to  
26 "close him down".

27 68. These words were heard by Joel Rettew, Charles  
28 Anastasia, Steven Ivy, James Halperin, John Highfill, Heritage

1 Capital Corporation and other persons not presently known to  
2 plaintiff.

3 69. These words were slanderous per se because they attack  
4 plaintiff in his reputation in business and impugn to plaintiff  
5 criminal acts and fraudulent acts.

6 70. The words uttered were false because plaintiff has not  
7 altered any of the PCGS packaging, nor has plaintiff ever knowingly  
8 sold any coin in an altered PCGS package. Moreover, PCGS has  
9 placed in the marketplace packaged coins with gross errors in  
10 grading which plaintiff is informed and believes may constitute  
11 some of the allegedly fraudulent coins to which defendant Hall  
12 refereed as set forth in allegations set forth in Paragraph 53,  
13 above.

14 71. The words carry a defamatory meaning because, the market  
15 value for any given coin is effected by the grading of said coin by  
16 PCGS. If a PCGS graded coin has been altered or substituted, the  
17 buyer will receive a coin having a value other than as represented  
18 by the grade of the coin set forth on the tag accompanying the coin  
19 in the sealed plastic container. If a coin merchant is accused of  
20 selling fraudulently grade or pacheyed coins, no one hearing and  
21 believing said accusation will do business with such person since  
22 they cannot rely upon the value of the coins being sold by such  
23 person.

24 72. The words were understood by those who read and/or heard  
25 them in a way that defamed plaintiff because, a fraudulent coin  
26 means that either the integrity of the plastic packaging has been  
27 damaged and the coin has been replaced or substituted for another  
28 coin, or the integrity of the plastic packaging has been

1 compromised and the paper tag showing the grading of the coin has  
2 been altered or substituted In either way, the purchaser of the  
3 said coin is not getting that which is being represented as a PCGS  
4 specifically graded coin.

5 73. As a result of the above described words, plaintiff has  
6 suffered general damages to his reputation in the sum of  
7 \$10,000,000.

8 74. As a further proximate result of the above described  
9 words, plaintiff has suffered the following special damages:

10 (a) Defendants Heritage, Ivy and Halperin have failed  
11 and refused, and continue to fail and refuse to pay the sum of  
12 \$807,374 due and owing for coins sold to said defendants by  
13 plaintiff;

14 (b) Defendants Heritage, Ivy and Halperin have failed  
15 and refused, and continue to fail and refuse to pay the sum of  
16 \$84,310 due and owing for coins sold to said defendants by  
17 plaintiff;

18 (c) Plaintiff has been unable to engage in plaintiff's  
19 business, trade and profession, because no one in the coin business  
20 will buy from or sell to plaintiff. Plaintiff is informed and  
21 believes, and thereon alleges that the total cessation of his  
22 business from and after July 20, 1988 is directly attributable to  
23 the allegations made against him as hereinabove set forth and his  
24 entire business has ceased, all to his injury in the sum of  
25 \$10,000,000.

26 75. The above described words were spoken by defendant Hall  
27 and with malice, oppression and a reckless disregard for  
28 plaintiff's rights. Plaintiff is informed and believes, and

1 thereon alleges, that he has been made a scapegoat by defendants in  
2 order to establish a focus of blame and to shift the attention from  
3 PCGS' internal errors which, if known to the community of coin  
4 traders, would adversely affect the marketplace since it would  
5 become difficult to rely upon the grading of PCGS to determine the  
6 value of a coin. By reason of such intentional, malicious and  
7 oppressive acts of the defendants and each of them, plaintiff is  
8 entitled to an award of exemplary and punitive damages in the  
9 amount of \$10,000,000.

10  
11 COUNT SIX

12 (For Intentional Infliction Of Emotional Distress  
13 Against Defendants Hall, PCGS, Ivy, Halperin,  
14 Heritage, And Does 1 Through 10, Inclusive)

15 76. Plaintiff hereby incorporates and realleges Paragraphs 1  
16 through 75 hereat as though fully set forth at this place.

17 77. Plaintiff is informed and believes and thereon alleges  
18 that in doing the acts hereinabove alleged, defendants intended to  
19 cause plaintiff great emotional distress. As a proximate result of  
20 the acts of defendants, and each of them as hereinabove described,  
21 plaintiff has sustained and continues to sustain emotional distress  
22 and mental suffering, not limited to sleepless nights, anxiety,  
23 nightmares and eating disorders, all to plaintiff's general damages  
24 in an amount not yet ascertained. Plaintiff will seek leave of  
25 this court to amend this complaint when same are ascertained.

26 78. As a further direct and proximate result of said  
27 conduct, plaintiff will incur medical and incidental expenses  
28 relating to the distress, the exact amount not yet ascertained and

1 plaintiff will seek leave of this court to amend this complaint  
2 when same are ascertained.

3 79. By reason of the intentional acts of defendants,  
4 defendants, and each of them, acting with malice and oppression,  
5 designed to cause plaintiff mental and emotional distress.  
6 Defendants, and each of them, are liable to plaintiff for exemplary  
7 and punitive damages in the sum of \$10,000,000.

8  
9 COUNT SEVEN

10 (For Negligent Infliction Of Emotional Distress)

11 80. Plaintiff hereby incorporates and realleges Paragraphs 1  
12 through 79 hereat as though fully set forth at this place.

13 81. Plaintiff is informed and believes, and thereon alleges  
14 that each and all of the representations hereinabove set forth were  
15 made by defendants, and each of them, without any justification or  
16 fact, or without any knowledge, information or evidence to support  
17 any of the defendants' claims as alleged in Paragraph 21, herein.  
18 As a direct and proximate result of the recklessness of the  
19 defendants, and each of them, in making the allegations as set  
20 forth in Paragraph 53, 53(a), 53(b), 53(c) and in making said  
21 allegations without any factual basis therefore, defendants and  
22 each of them were grossly negligent.

23 82. As a direct and proximate result of the recklessness of  
24 the conduct of defendants and each of them plaintiff has sustained  
25 damage to his reputation in the business community, has sustained  
26 monetary damages in a sum in excess of approximately \$900,000 and  
27 has sustained severe anguish and anxiety, mental and emotional  
28 distress, discomfort, pain and suffering, all to his general

1 damages in a sum to be ascertained at the time of trial. Plaintiff  
2 will ask leave of the court to amend this complaint to set forth  
3 the same when ascertained.

4 83. As a direct and proximate result of the actions of the  
5 defendants, and each of them, plaintiff is informed and thereon  
6 alleges that he will sustain medical and incidental expenses  
7 relating to and in connection with the emotional distress herein  
8 alleged, in an amount not yet fully ascertained, and plaintiff will  
9 ask leave of the court to amend this complaint to set forth the  
10 amount of special and incidental damages sustained, including but  
11 not limited to those for medical practitioners when same are  
12 ascertained.

13  
14 COUNT EIGHT

15 (For Conversion Against Defendants

16 Ivy, Halperin, Heritage, Hall And PCGS)

17 84. Plaintiff hereby incorporates and realleges Paragraphs 1  
18 through 83 hereat as though fully set forth at this place.

19 85. Plaintiff is informed and believes, and thereon alleges  
20 that on or about July 22, 1988, defendants Ivy and Halperin, for  
21 and on behalf of defendant Heritage did convey, transfer and  
22 deliver to David Hall and PCGS each and every item of personal  
23 property described upon Exhibit "A" hereof, attached hereto and  
24 incorporated hereat by this reference having a value of \$807,378  
25 and other coins referred to in Paragraph hereof having a value of  
26 \$84,310.

27 86. Plaintiff alleges that said items, having not been paid  
28 for, are the personal property of plaintiff.

87. Demand for the immediate return of plaintiff's property has been made upon defendants Hall, PCGS, Ivy, Halperin and Heritage, and said defendants, each and all, have refused to return said items, but have converted same to their own use and benefit, in derogation of plaintiff's rights thereto.

88. As a direct and proximate result of the conversion of said items of personal property, plaintiff has been deprived of the use and benefit of same, and defendants, and each of them, have been unjustly enriched by the use and benefit of same, all to plaintiff's damages in the sum of \$891,688.

COUNT NINE

(For Claim And Delivery Against Heritage, Ivy,  
Halperin, Hall And PCGS)

89. Plaintiff hereby incorporates and realleges Paragraphs 1 through 88 hereat as though fully set forth at this place.

90. Plaintiff is informed and believes, and thereon alleges that, in the absence of payment for personal property identified and listed on Exhibit "A" hereof, having a value of \$807,378 and as described in Paragraph 18 j hereof and incorporated hereat by this reference, having a value of \$84,310, plaintiff is the true and only owner of said items.

91. Plaintiff is informed and believes, and thereon alleges, that defendants PCGS, Hall, Heritage, Ivy and/or Halperin, and Does 11 through 20, inclusive, claim an interest in and title to said items of personal property adverse to the claims of plaintiff.

92. Plaintiff has demanded return of the personal property from defendants named herein, and defendants have failed and

1 refused, and continue to fail and refuse to deliver to plaintiff  
2 said items.

3  
4 COUNT TEN

5 (For Goods Sold And Delivered)

6 93. Plaintiff hereby incorporates and realleges Paragraphs 1  
7 through 92 hereat as though fully set forth at this place.

8 94. Within two years and before July 14, 1988, defendant  
9 Heritage as the alter ego of defendants Steven Ivy and James  
10 Halperin, became indebted to plaintiff for goods sold and delivered  
11 by plaintiff to defendants Heritage, Ivy and Halperin, who then and  
12 there agreed to pay the sum of \$84,310 for said goods.

13 95. Neither the whole nor any part of the above sum has been  
14 paid although demand therefore has been made and there is now due,  
15 owing and unpaid from defendants Heritage, Ivy and Halperin to  
16 plaintiff the sum of \$84,310, together with interest thereon at the  
17 rate of ten percent (10%) per annum from July 1, 1988.

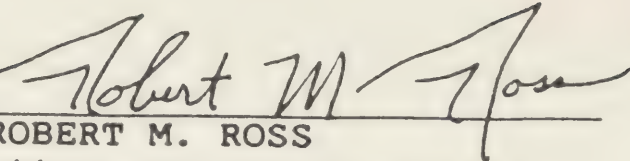
18 WHEREFORE, plaintiff prays for judgment against defendants,  
19 and each of them, as follows:

- 20 1. For general damages according to proof;
- 21 2. For special damages according to proof;
- 22 3. For punitive damages according to proof;
- 23 4. For the immediate return of plaintiff's personal  
24 property;
- 25 5. For attorney's fees incurred in connection with the  
26 recovery of said personal property;
- 27 6. For costs of suit incurred herein; and
- 28 7. For such other and further relief as the court may deem

1 just and proper.

2  
3 DATED: January 5, 1989

KLASS, HELMAN & ROSS

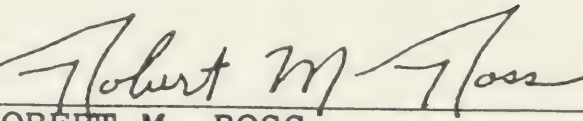
4  
5 By   
6 ROBERT M. ROSS  
7 Attorneys for Plaintiff  
8 Gary Fernandez

9 DEMAND FOR JURY TRIAL

10  
11 Plaintiff hereby demands a trial by jury.

12 DATED: January 5, 1989

KLASS, HELMAN & ROSS

13 By   
14 ROBERT M. ROSS  
15 Attorneys for Plaintiff  
16 Gary Fernandez

17  
18 FERNANDE.9

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

[illegible]

LOCATION		PHONE		DATE		
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
1	78-cc	\$	PCRS 65			3400
1	79-0	\$	/ 65			672
3	78-s	\$	✓ ✓		680	2040
1	81	\$	✓ ✓			267
1	81-cc	\$	✓ ✓			910
1	82	\$	✓ ✓			252
1	82-cc	\$	✓ ✓			92
3	83	\$	✓ ✓		715	2145
3	85-cc	\$	✓ ✓		1450	4350
1	90-s	\$	✓ ✓			232
1	91-s	\$	✓ ✓			277
1	96	\$	✓ ✓			98
5	97	\$	✓ ✓		1685	8425
1	97-s	\$	✓ ✓			1800
1	98	\$	✓ ✓			1075
TOTAL						43075

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		Cinci		PHONE	DATE	
NAME		Heritage				
ADDRESS		Dallas Tx				
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
20			St PCGS 65		3700	40700
5			Ind PCGS 63		3700	3700
2		10	Ind PCGS 63		1975	3950
1		10	Lis PCGS 63		2375	2375
14		20	Lis PCGS 63		1550	21700
2		10	Ind PCGS 64		6350	12700
2		20	Lis PCGS 64			<del>12700</del>
19		20	St PCGS 63		930	17670
1		20	St PCGS 64	Mix		1650
1		20	Lis PCGS 63	Mix		1550
						105995
				TOTAL		
RECEIVED BY:						

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		Cinci		PHONE	DATE	
NAME		Heritage				
ADDRESS		311 MARKET St Dallas, Tx 7520				
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
13		20	Lis S-63		1550	20150
8		2.5	Ind PCGS 64		3525	28200
1	32	10	Ind PCGS 63		1975	1975
1	32	10	Ind PCGS 64		6350	6350
1	04	20	Lis PCGS 65			10700
2	05	2.5	Lis PCGS 65		6450	12900
1	03	2.5	Lis PCGS 64		3275	3275
1	26	2.5	Ind PCGS 63		1310	1310
1	08	5	Ind PCGS 63		3700	3700
1	10-5	5	Ind PCGS 63		3700	3700
1		20	St			92260
				TOTAL		
RECEIVED BY:						

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE		
				7-20-88		
NAME						
Heritage						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
37			5/8 1/2 1/2 1/2		1660	11420
1			1/2			450
2			1/2		175	1100
2			1/2		1100	1100
1			1/2			400
1			1/2			125
11			1/2		115	1465
1			1/2			385
1			1/2			2700
1			1/2			1400
1			1/2			1250
1			1/2			3780
1			1/2		1675	2475
			1/2			4200
				TOTAL		
RECEIVED BY:						

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE		
NAME						
Heritage						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
42			Misc PCGS			
			that I bought			
			from Heritage			
			for B Fazio			
				TOTAL		
RECEIVED BY:						

Exhibit A

+360-

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE	DATE	
NAME				
ADDRESS				
CASH		CONSIGNMENT		CHECK #
DATE	DEMON	DESCRIPTION	COST	UNIT PRICE AMOUNT
	\$20	5 lbs PCGS 64		1660 3320
	\$20	Libs PCGS 64		400 24000
1/12	10	Ind PCGS 64		6550
2/1	15	Libs PCGS 63		1900
				35570
TOTAL				35570

BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE	DATE		
NAME					
ADDRESS					
CASH		CONSIGNMENT		CHECK #	
QTY.	DATE	DEMON	DESCRIPTION	COST UNIT PRICE AMOUNT	
- 1	1/20/5	25	Libs PCGS 64		3450
- 1	28	2.5	Ind PCGS 63		1325
- 1	27	2.5	Ind PCGS 64		3650
- 1	28	2.5	Ind PCGS 64		3650
- 1	01	5	Libs		5350
- 1	08	5	Ind 63		3700
- 1	01-3	10	Libs 63		2425
- 1	02-3	10	Libs 63		2425
- 1	07	10	Libs 63		2425
- 10		20	5 lbs PCGS 65	3800	38000
- 1	26	2.5	Ind PCGS 64		8025
- 28		20	8 lbs 63 Heller	960	26880
- 2		20	Libs 63	1550	3100
- 2		20	St 64	1660	3320
- 1	08-3	20	St	1625	1625
TOTAL					109350

Exhibit A



P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

Exhibit 1

LOCATION		PHONE	DATE		
NAME					
ADDRESS					
CASH	CONSIGNMENT	CHECK #			
DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
9-	\$	PCGS 65			2550
10-00	\$	/			7750
10-00	\$	/		2325	4650
03	\$	/		800	1600
03-00	\$	/			1425
1-00	\$	/			2100
71	\$	64			320
1-00	\$	64			345
5-00	\$	64			350
10	\$	/			635
00-00	\$	/			1910
1-00	\$	/			465
1-00	\$	/		715	1430
1-00	\$	/			1100
05	\$	/			575
TOTAL					27205

LOCATION		PHONE	DATE			
NAME						
ADDRESS						
CASH	CONSIGNMENT	CHECK #				
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
1	78	\$	PCGS 65			3395
1	80	\$	PCGS 65			4125
2	82-00	\$	PCGS 65		925	1850
10	83-00	\$	PCGS 65		697	6970
1	84	\$	PCGS 65			900
1	84-00	\$	PCGS 65			370
2	84-00	\$	PCGS 65		697	1394
1	85-00	\$	PCGS 65			1450
1	89	\$	PCGS 65			2635
1	89-00	\$	PCGS 65			4100
1	90-00	\$	PCGS 65			6775
1	91-00	\$	PCGS 65			5000
4	96	\$	PCGS 65		980	3920
1	97	\$	PCGS 65			1695
2	98	\$	PCGS 65		1100	2200
TOTAL						46779

RECEIVED BY:

# VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing

and know its contents.

## ☒ CHECK APPLICABLE PARAGRAPH

- ☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.
- ☐ I am ☐ an Officer ☐ a partner ☐ a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

- ☐ I am one of the attorneys for a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ California.  
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

## ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT (other than summons and complaint)

Received copy of document described as

on \_\_\_\_\_ 19\_\_\_\_.

Type or Print Name

Signature

## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is:  
10850 Wilshire Blvd., Suite 500, Los Angeles, California 90024

On Jan. 5, 1989 I served the foregoing document described as  
SECOND AMENDED COMPLAINT FOR DAMAGES

on interested parties

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

PETER WILSON, ESQ.  
LATHAM & WATKINS  
650 TOWN CENTER DRIVE, 20TH FLOOR  
COSTA MESA, CA 92626

WILLIAM J. REIFMAN, ESQ.  
MAYER, BROWN & PLATT  
355 SO. GRAND AVENUE  
LOS ANGELES, CA 90071

- ☐ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

Executed on \_\_\_\_\_, 1989, at Los Angeles, California.

- ☒ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on January 5, 1988, 1989, at Los Angeles, California.

- ☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

- ☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

KAREN S. SMYTH

Type or Print Name

Signature

LATHAM & WATKINS  
Robert E. Currie  
Peter J. Wilson  
650 Town Center Drive, 20th Floor  
Costa Mesa, California 92626

(714) 540-1235

ALSTON & BIRD  
Frank Smith  
Martin J. Elgison  
1201 West Peachtree Street  
Atlanta, GA 30309-3424

(404) 881-7240

Attorneys for Defendant DAVID HALL and  
Defendant and Counterclaimant  
PROFESSIONAL COIN GRADING SERVICE, INC.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

GARY FERNANDEZ,

Plaintiff,

v.

DAVID HALL; PROFESSIONAL COIN  
GRADING SERVICE, a California  
corporation; STEVEN IVY;  
JAMES HALPERIN; HERITAGE CAPITAL  
CORPORATION, a Texas corporation;  
and DOES 1 through 20, inclusive,

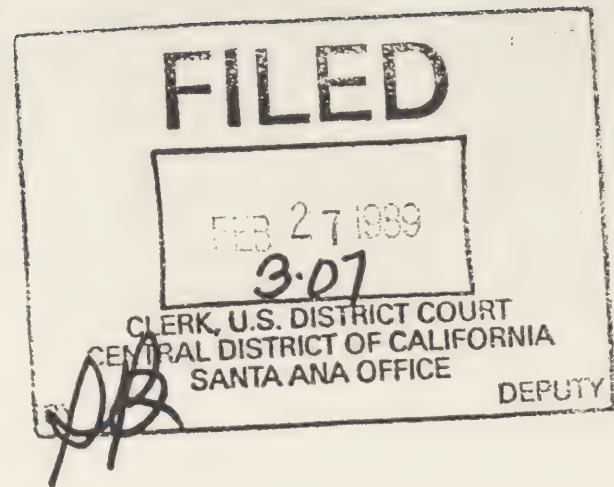
Defendants.

AND RELATED COUNTERCLAIMS

Case No. CV 88-556JSL(RWRx)

ANSWER OF DEFENDANTS  
DAVID HALL AND PROFESSIONAL  
COIN GRADING SERVICE TO  
SECOND AMENDED COMPLAINT

Defendants David Hall ("Hall") and Professional Coin  
Grading Service ("PCGS") (collectively "defendants") answer the  
second amended complaint (hereinafter "complaint") filed herein  
as follows:



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1. In answer to the allegations of paragraph 1,

2. In answer to the allegations of paragraph 2,

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3. In answer to the allegations of paragraph 3,

4. In answer to the allegations of paragraph 4,

1 admitted or alleged, defendants deny each and every allegation  
2 of paragraph 4.

3 5. Defendants admit the allegations of paragraph 5.

4 6. In answer to the allegations of paragraph 6,  
5 defendants allege that Heritage does business throughout the  
6 State of California, including Newport Beach, California, and  
7 deny that Heritage is an enterprise within the meaning of 18  
8 U.S.C. Section 1961(4). Except as expressly so alleged or  
9 denied, defendants are without knowledge or information  
10 sufficient to form a belief as to the truth of the allegations  
11 of paragraph 6.

12 7. Defendants admit the allegations of paragraph 7.

13 8. Defendants are without knowledge or information  
14 sufficient to form a belief as to the truth of the allegations  
15 of paragraph 8.

16 9. Defendants are without knowledge or information  
17 sufficient to form a belief as to the truth of the allegations  
18 of paragraph 9.

19 10. Defendants deny each and every allegation of  
20 paragraph 10.

21 11. Defendants deny each and every allegation of  
22 paragraph 11.

23 12-51. In accordance with the Order of this Court  
24 dated February 7, 1989 separating and staying the trial on  
25 Counts One and Two from the trial on the remaining counts, and  
26 in accordance with the agreement of all parties as to the effect  
27 of such order on the scope of defendants' Answer herein,  
28 defendants do not at this time answer any of the allegations of

1 the complaint concerning plaintiff's alleged RICO claims.  
2 Defendants reserve their right to Answer such RICO claims after  
3 the conclusion of the trial of the remaining counts, under a  
4 schedule determined by the Court or agreed between the parties.  
5 Defendants' failure to respond to paragraphs 12 through 51,  
6 inclusive, of the complaint shall in no way be construed as an  
7 admission of any of the allegations contained therein. To the  
8 extent that any of the allegations of paragraphs 12 through 51,  
9 inclusive, are incorporated by reference into counts three  
10 through ten, or any of them, all such allegations are denied.

11 PENDENT STATE LAW CLAIMS

12 52. Defendants are without knowledge or information  
13 sufficient to form a belief as to the truth of the allegations  
14 of paragraph 52.

15 53. Defendants are without knowledge or information  
16 sufficient to form a belief as to the truth of the allegations  
17 of paragraph 53.

18 54. In answer to the allegations of paragraph 54,  
19 defendants admit that the business of PCGS consists of the  
20 grading, by appraisal, of rare coins, sealing the coins so  
21 appraised in a plastic casing with its appraisal, and  
22 guaranteeing the value of the coin to be as graded based upon  
23 the then current market value for coins of such grade. Except  
24 as expressly so admitted, defendants deny each and every  
25 allegation of paragraph 54.

26 55. Defendants deny each and every allegation of  
27 paragraph 55.  
28

1           56. Defendants are without knowledge or information  
2 sufficient to form a belief as to the truth of the allegations  
3 of paragraph 56.

4           57. Defendants deny each and every allegation of  
5 paragraph 57.

6                   ANSWER TO COUNT THREE

7           58-60. Defendants make no admissions, denials, or  
8 allegations to Count Three because such claim does not purport  
9 to state a claim against defendants.

10                   ANSWER TO COUNT FOUR

11           61-65. Defendants make no admissions, denials, or  
12 allegations to Count Four because such claim does not purport to  
13 state a claim against defendants.

14                   ANSWER TO COUNT FIVE

15           66. Defendants reallege and incorporate by reference  
16 paragraphs 1 through 65 hereof as though fully set forth herein.

17           67-68. In answer to the allegations of paragraphs  
18 67 and 68, defendants allege that on or about July 14, 1988 and  
19 thereafter Hall, on behalf of PCGS, stated to Joel Rettew and/or  
20 Charles Anastasia and/or John Highfill and/or Steven Ivy and/or  
21 James Halperin, among others, that PCGS's security system had  
22 been breached and that between 200 and 500 coins were being sold  
23 as having been analyzed, graded and sealed by PCGS but which  
24 coins in fact were not analyzed, graded and sealed by PCGS  
25 (hereinafter the "bad coins"), and that plaintiff and Brian  
26 Fazio had sold bad coins and that they should take care both  
27 with respect to coins purchased from plaintiff and/or Fazio and  
28 as to coins from any other source that they were not bad coins.

1 Defendants further allege that at various times after July 14,  
2 1988 they made statements both orally and in writing, to the  
3 persons mentioned herein, among others, to the effect that the  
4 issue of the bad coins was being investigated by the FBI.  
5 Except as expressly so alleged, defendants deny each and every  
6 allegation of paragraphs 67 and 68.

7 69. Defendants deny each and every allegation of  
8 paragraph 69.

9 70. Defendants deny each and every allegation of  
10 paragraph 70.

11 71. In answer to the allegations of paragraph 71,  
12 defendants admit that the market value for any given coin is  
13 affected by the grade assigned to said coin by PCGS; that if a  
14 PCGS graded coin has been altered or substituted, the buyer will  
15 receive a coin having a value other than as represented by the  
16 grade of the coin set forth in the tag accompanying the coin in  
17 the sealed plastic container; and that certain persons may  
18 refuse to do business with a person known or believed to have  
19 sold fraudulently graded or packaged coins. Except as expressly  
20 so alleged, defendants deny each and every allegation of  
21 paragraph 71.

22 72. In answer to the allegations of paragraph 72,  
23 defendants allege that a fraudulent PCGS coin means that the  
24 plastic packaging has been destroyed and a coin of lesser value  
25 placed in a counterfeit holder with the genuine PCGS insert, or  
26 the coin removed from the destroyed holder has been placed in a  
27 counterfeit holder with a counterfeit PCGS insert bearing a  
28 grade higher than the grade on the original PCGS insert, or a

1 coin obtained from another source has been inserted in a  
2 counterfeit holder with a counterfeit insert which assigns a  
3 grade to the coin higher than the grade which would have been  
4 assigned by PCGS had it been graded by PCGS. Defendants allege  
5 further that, in any of the circumstances described above, the  
6 purchaser of the coin is not getting that which is being  
7 represented as a PCGS graded coin. Except as expressly so  
8 alleged, defendants deny each and every allegation of paragraph  
9 72.

10 73. Defendants deny each and every allegation of  
11 paragraph 73.

12 74. Defendants deny each and every allegation of  
13 subparagraph (c) of paragraph 74. Defendants further deny that  
14 plaintiff has suffered any damages as a result of the words  
15 alleged. Except as expressly so denied, defendants are without  
16 knowledge or information sufficient to form a belief as to the  
17 truth of the allegations of subparagraphs (a) and (b) of  
18 paragraph 74.

19 75. Defendants deny each and every allegation of  
20 paragraph 75.

21 ANSWER TO COUNT SIX

22 76. Defendants reallege and incorporate by reference  
23 paragraphs 1 through 75 hereof as though fully set forth herein.

24 77. Defendants deny each and every allegation of  
25 paragraph 77.

26 78. Defendants deny each and every allegation of  
27 paragraph 78.  
28

1           79. Defendants deny each and every allegation of  
2 paragraph 79.

3                           ANSWER TO COUNT SEVEN

4           80. Defendants reallege and incorporate by reference  
5 paragraphs 1 through 79 hereof as though fully set forth herein.

6           81. Defendants deny each and every allegation  
7 contained in paragraph 81.

8           82. Defendants deny each and every allegation of  
9 paragraph 82.

10          83. Defendants deny each and every allegation of  
11 paragraph 83.

12                           ANSWER TO COUNT EIGHT

13          84. Defendants reallege and incorporate by reference  
14 paragraphs 1 through 83 hereof as if fully set forth herein.

15          85. In answer to the allegations of paragraph 85,  
16 defendants allege that Heritage delivered to PCGS certain of the  
17 coins described on Exhibit A to the complaint, to enable PCGS to  
18 determine whether the coins were in counterfeit PCGS holders,  
19 and that all such coins were returned to Heritage. Except as  
20 expressly so alleged, defendants deny each and every allegation  
21 of paragraph 85.

22          86. Defendants deny each and every allegation of  
23 paragraph 86.

24          87. In answer to the allegations of paragraph 87,  
25 defendants admit that plaintiff has made a demand for the return  
26 of its alleged property. Defendants further allege that all  
27 coins received from Heritage, as referred to in paragraph 85  
28 hereof, were returned to Heritage. Except as expressly so

1 admitted or alleged, defendants deny each and every allegation  
2 of paragraph 87.

3 88. Defendants deny each and every allegation of  
4 paragraph 88.

5 ANSWER TO COUNT NINE

6 89. Defendants reallege and incorporate by reference  
7 paragraphs 1 through 88 hereof as though fully set forth herein.

8 90. Defendants deny each and every allegation  
9 contained in paragraph 90.

10 91. In answer to the allegations of paragraph 91,  
11 defendants allege that defendant PCGS claims an interest in all  
12 the coins in counterfeit PCGS holders, as set forth in its  
13 counterclaim filed herein. Defendants are without knowledge or  
14 information sufficient to form a belief as to the truth of the  
15 allegations of paragraph 91 as they concern Heritage, Ivy and/or  
16 Halperin. Except as expressly so alleged, defendants deny each  
17 and every allegation of paragraph 91.

18 92. In answer to the allegations of paragraph 92,  
19 defendants admit that plaintiff has demanded return of his  
20 alleged property from defendants, and allege that defendants are  
21 not in possession of any property belonging to plaintiff.  
22 Except as expressly so admitted or alleged, defendants deny each  
23 and every allegation of paragraph 92.

24 ANSWER TO COUNT TEN

25 93-95. Defendants make no admissions, denials, or  
26 allegations to Count Ten because such claim does not purport to  
27 state a claim against defendants.

28 ///

1                   AFFIRMATIVE DEFENSE TO ALL CLAIMS

2                   96. The alleged claims, and each of them, fail to  
3 state a claim upon which relief can be granted.

4                   SECOND AFFIRMATIVE DEFENSE TO ALL CLAIMS

5                   (Justification and Privilege)

6                   97. Defendants' alleged actions respecting the  
7 subject matters alleged in the fifth, sixth, seventh, eighth and  
8 ninth claims in the complaint were undertaken in good faith, in  
9 the absence of malicious intent to injure plaintiff, and  
10 constitute lawful, proper and justified means to further their  
11 sole purpose of engaging in and continuing the business of  
12 defendant PCGS, thus barring recovery by plaintiff on any of  
13 such claims.

14                  THIRD AFFIRMATIVE DEFENDANT TO ALL CLAIMS

15                  (Privilege)

16                  98. Defendants are informed and believe, and  
17 thereupon allege, that all statements alleged in the complaint  
18 to have been made by them, or either or them, if such statements  
19 are found to have been made, were made without malice to persons  
20 interested therein, by a person also interested, or by a person  
21 standing in such relation to the person interested as to afford  
22 a reasonable ground for supposing the motive for the  
23 communication innocent, or by a person who was requested by the  
24 person interested to give the information, and are, therefore,  
25 privileged under the provisions of California Civil Code Section  
26 47(3).

27                  ///

28                  ///

1                    FOURTH AFFIRMATIVE DEFENSE TO FIFTH CLAIM

2                    (Privilege)

3                    99. With respect to plaintiff's alleged claim for  
4 slander, defendants are informed and believe, and thereupon  
5 allege, that the alleged statements by them of which plaintiff  
6 complains, if such statements are found to have been made, were  
7 made without malice to persons interested therein, by a person  
8 also interested, or by a person who stands in such relation to  
9 the person interested as to afford a reasonable ground for  
10 supposing the motive for the communication innocent, or by a  
11 person who was requested by the person interested to give the  
12 information, and are, therefore, privileged under the provisions  
13 of California Civil Code Section 47(3).

14                    FIFTH AFFIRMATIVE DEFENSE TO FIFTH CLAIM

15                    (Truth)

16                    100. With respect to plaintiff's alleged claim for  
17 slander, defendants are informed and believe, and thereupon  
18 allege, that the alleged statements by them of which plaintiff  
19 complains, if such statements are found to have been made, are  
20 in fact true.

21                    SIXTH AFFIRMATIVE DEFENSE TO ALL CLAIMS

22                    (Unclean Hands)

23                    101. Plaintiff is barred from maintaining his alleged  
24 claims, or any of them, against defendants, or either of them,  
25 by the doctrine of unclean hands, on the grounds set forth in  
26 defendant PCGS's counterclaim herein.

27                    ///

28                    ///

1                    SEVENTH AFFIRMATIVE DEFENSE TO ALL CLAIMS

2                    102. Plaintiff has failed to exercise reasonable  
3 diligence in mitigating the damages he claims to have suffered.

4                    EIGHTH AFFIRMATIVE DEFENSE TO FIFTH AND SIXTH CLAIMS

5                    (Civil Code § 3294)

6                    103. Plaintiff is precluded from recovering punitive  
7 damages from defendants, or either of them, either in whole or  
8 in part, under the applicable provisions of California Civil  
9 Code § 3294, or such other statute to similar effect as may be  
10 applicable.

11                    WHEREFORE, defendants pray judgement as follows:

12                    1. That plaintiff take nothing by his Complaint and  
13 that the same be dismissed with prejudice;

14                    2. For defendants' costs herein, including  
15 reasonable attorneys' fees; and

16                    3. For such other and further relief as this Court  
17 deems just and proper.

18                    DATED: February 27, 1989

19                    LATHAM & WATKINS

20                    By: Peter J. Wilson.

21                    Peter J. Wilson  
22 Attorneys for Defendants  
23 DAVID HALL and PROFESSIONAL COIN  
24 GRADING SERVICE, INC.  
25  
26  
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I served the below listed document(s) described as:

ANSWER OF DEFENDANTS DAVID HALL AND PROFESSIONAL COIN GRADING  
SERVICE TO SECOND AMENDED COMPLAINT]

Robert M. Ross, Esq.  
KLASS, HELMAN & ROSS  
10850 Wilshire Blvd., Ste. 500  
Los Angeles, CA 90024

William J. Reifman, Esq.  
Mayer, Brown & Platt  
355 S. Grand Avenue  
Los Angeles, CA 90071

[xx] I placed such envelope with postage thereon fully prepaid for deposit in the United States mail in accordance with the office practice of Latham & Watkins for collecting and processing correspondence for mailing with the United States Postal Service. I am familiar with the office practice of Latham & Watkins for collecting and processing correspondence for mailing with the United States Postal Service, which practice is that when correspondence is deposited with the Latham & Watkins personnel responsible for delivering correspondence to the United States Postal Service, such correspondence is delivered to the United States Postal Service that same day in the ordinary course of business.

Executed on February 27, 1989, at Costa Mesa,  
California.

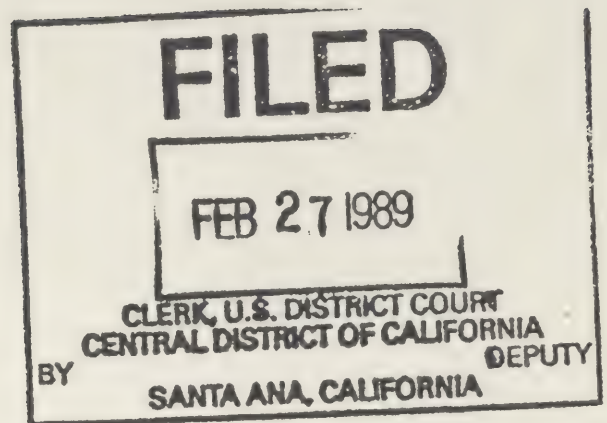
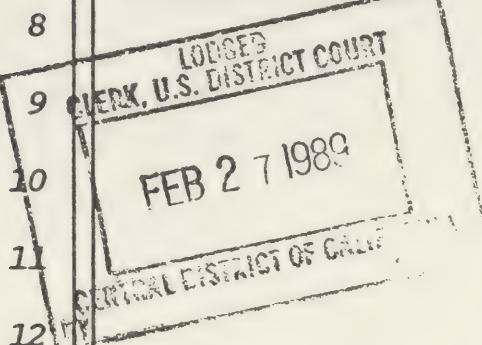
[xxx] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

was made.

Sandra Greenfield

1 MAYER, BROWN & PLATT  
2 WILLIAM J. REIFMAN  
3 RICHARD A. MCDONALD  
355 South Grand Avenue  
Los Angeles, California 90071  
(213) 229-9500  
4  
5 ARMEN VARTIAN, ESQ.  
250 West 57th Street, Suite 1216  
New York, New York 10019

6  
7 Attorneys For Defendants And Cross-Complainants  
8 HERITAGE CAPITAL CORPORATION, STEVEN IVY and  
JAMES HALPERIN



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

13 GARY FERNANDEZ, ) CASE NO. SA-CV 88-556  
14 ) (JSL) (RWRx)  
14 Plaintiff, )  
15 vs. ) ANSWER AND AFFIRMATIVE  
16 ) DEFENSES OF DEFENDANTS  
16 DAVID HALL; PROFESSIONAL COIN ) HERITAGE CAPITAL CORPORATION,  
GRADING SERVICE, a California ) STEVEN IVY AND JAMES HALPERIN  
17 corporation; STEVEN IVY; JAMES )  
18 HALPERIN; HERITAGE CAPITAL )  
CORPORATION, a Texas )  
19 corporation; and DOES 1 )  
through 20, inclusive, )  
20 Defendants. )  
21 )  
22 AND RELATED COUNTERCLAIMS. )  
23 )

24 Defendants and cross-complainants Heritage Capital  
25 Corporation ("Heritage"), Steven Ivy and James Halperin  
26 (collectively "Defendants") admit, deny, and otherwise answer the  
27 pendent state-law claims and allegations in the Second Amended  
28 Complaint of plaintiff Gary Fernandez as follows:

JURISDICTION AND VENUE

1  
2 1. Defendants deny that this action arises under 18 U.S.C.  
3 §§1961-1962 and that this Court has jurisdiction under and by  
4 virtue of 18 U.S.C. §§1961, et. seq.

5 2. Defendants admit that Professional Coin Grading Service  
6 ("PCGS") has its corporate offices in this District, that  
7 Heritage does business in this District, and that the place of  
8 residence of David Hall ("Hall") is in this District. Except as  
9 expressly admitted herein, Defendants deny the remaining  
10 allegations contained in Paragraph 2.

11  
12 PARTIES

13 3. Defendants admit that plaintiff Gary Fernandez does  
14 business as a rare coin dealer in California and elsewhere within  
15 the United States. Further answering, Defendants deny having  
16 knowledge or information sufficient to form a belief as to the  
17 remaining allegations contained in Paragraph 3.

18 4. Defendants deny that PCGS is an "enterprise" under 18  
19 U.S.C. § 1961(4). Further answering, Defendants admit the  
20 remaining allegations contained in Paragraph 4.

21 5. Defendants deny the allegations contained in Paragraph  
22 5.

23 6. Defendants admit that Heritage is a Texas corporation  
24 and that it does business in various parts of California.  
25 Further answering, Defendants deny the remaining allegations  
26 contained in Paragraph 6.

27 7. Defendants admit the allegations contained in Paragraph  
28 7.

8. Defendants deny the allegations contained in Paragraph 8 for lack of sufficient information and belief to answer.

9. Defendants deny the allegations contained in Paragraph 9 for lack of sufficient information and belief to answer.

10. Defendants deny the allegations contained in Paragraph 10 for lack of sufficient information and belief to answer.

11. Defendants deny the allegations contained in Paragraph 11.

12-51. Pursuant to the Court's February 7, 1989 Order staying the trial on Counts One and Two of plaintiff's Second Amended Complaint, the parties agreed on February 14, 1989 that Defendants are not required at this time to answer the RICO allegations contained in Paragraphs 12 through 51 of plaintiff's Second Amended Complaint. Defendants reserve their right to answer plaintiff's RICO claims and allegations after the trial on the remaining counts alleged in his Second Amended Complaint and pursuant to a schedule agreed upon by the Court and the parties. Defendants' lack of response to Paragraphs 12 through 51 shall in no way be construed as an admission of any of the allegations contained therein, and, to the extent that any of the allegations contained in Paragraphs 12 through 51 are incorporated by reference into the remaining counts of plaintiff's Second Amended Complaint, any and all such allegations are denied.

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PENDENT STATE-LAW CLAIMS

52. Defendants admit that on or about July 14, 1988 and to and including July 20, 1988, plaintiff delivered certain gold and silver coins to Heritage. Except as expressly admitted herein, Defendants deny the remaining allegations contained in Paragraph 52.

53. Defendants admit that they have not paid plaintiff \$807,378.00, but deny the remaining allegations contained in Paragraph 53.

54. Defendants admit that the business of PCGS involves the grading, by appraisal, of valuable coins, sealing the coin so appraised in on impenetrable plastic casing with its appraisal and guaranteeing the value of the coin to be as graded based upon the then current market value for such coins of said grade. Defendants deny that PCGS is an "enterprise" for purposes of the RICO statute. Defendants deny the remaining allegations contained in paragraph 54 for lack of sufficient information and belief to answer.

55. Defendants deny the allegations contained in Paragraph 55.

56. Defendants admit that Ivy and Halperin are the only shareholders of Heritage. Further answering, Defendants deny the remaining allegations contained in Paragraph 56.

57. Defendants deny the allegations contained in Paragraph 57.

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ANSWER TO COUNT THREE

58. Defendants incorporate herein their responses to Paragraphs 1 through 11, and 52 through 57 of plaintiff's Second Amended Complaint as if set forth in full herein.

59. Defendants deny the allegations contained in Paragraph 59.

60. Defendants admit that plaintiff has demanded various sums from them which have not been paid, but deny the remaining allegations contained in Paragraph 60.

ANSWER TO COUNT FOUR

61. Defendants incorporate herein their responses to Paragraphs 1 through 11, and 52 through 60 of plaintiff's Second Amended Complaint as if set forth in full herein.

62. Defendants deny the allegations contained in Paragraph 62 that relate to Ivy and Halperin. Further answering, Defendants admit the remaining allegations contained in Paragraph 62.

63. Defendants admit that certain coins were delivered to Heritage through plaintiff's agent on or about July 20, 1988, but deny the remaining allegations contained in Paragraph 63.

64. Defendants admit that plaintiff has demanded certain sums from them which have not been paid, but deny the remaining allegations contained in Paragraph 64.

65. Defendants deny the allegations contained in Paragraph 65.

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ANSWER TO COUNT FIVE

66. Defendants incorporate herein their responses to Paragraphs 1 through 11, and 52 through 65 of plaintiff's Second Amended Complaint as if set forth in full herein.

67(a)-(c). Defendants admit that commencing on or about July 14, 1988, Ivy and Halperin stated orally to various other persons that (1) plaintiff was selling coins which were represented to have been graded by PCGS but which had not, in fact, been graded by PCGS; (2) plaintiff was under investigation by the Federal Bureau of Investigation ("F.B.I.") in connection with his sale of coins falsely represented to have been graded by PCGS; and (3) those persons should take care not to purchase coins from plaintiff which had been falsely represented to be PCGS coins. Further answering, Defendants deny having sufficient knowledge or information to form a belief as to the allegations pertaining to DOES 1 through 10 or Hall, and further deny the remaining allegations contained in Paragraph 67.

68. Defendants admit that Ivy and Halperin heard their own oral statements and that statements were made by Ivy and Halperin to Joel Rettew, Charles Anastasia, John Highfill and others. Further answering, Defendants deny the remaining allegations contained in Paragraph 68.

69. Defendants deny the allegations contained in Paragraph 69.

70. Defendants deny the allegations contained in Paragraph 70.

71. Defendants admit that the market value of a coin may be affected by whether it is a true PCGS coin or a coin in a

) )

1 substitute or altered PCGS package, and that some persons may  
2 refuse to do business with a dealer known to have sold coins in  
3 altered or substitute PCGS packages. Further answering,  
4 Defendants deny the remaining allegations contained in Paragraph  
5 71.

6 72. Defendants admit that the purchaser of a coin in an  
7 altered or substituted PCGS package is not getting that which is  
8 being represented as a PCGS specifically graded coin. Except as  
9 expressly admitted herein, Defendants deny the remaining  
10 allegations contained in Paragraph 72.

11 73. Defendants deny the allegations contained in Paragraph  
12 73.

13 74(a)-(c). Defendants admit that they have not paid  
14 plaintiff the sums demanded, but deny the remaining allegations  
15 contained in Paragraph 74.

16 75. Defendants deny the allegations contained in Paragraph  
17 75.

18  
19 ANSWER TO COUNT SIX

20 76. Defendants incorporate herein their responses to  
21 Paragraphs 1 through 11, and 52 through 75 of plaintiff's Second  
22 Amended Complaint as if set forth in full herein.

23 77. Defendants deny the allegations contained in Paragraph  
24 77.

25 78. Defendants deny the allegations contained in Paragraph  
26 78.

27 79. Defendants deny the allegations contained in Paragraph  
28 79.

ANSWER TO COUNT SEVEN

80. Defendants incorporate herein their responses to Paragraphs 1 through 11, and 52 through 79 of plaintiff's Second Amended Complaint as if set forth in full herein.

81. Defendants deny the allegations contained in Paragraph 81.

82. Defendants deny the allegations contained in Paragraph 82.

83. Defendants deny the allegations contained in Paragraph 83.

ANSWER TO COUNT EIGHT

84. Defendants incorporate herein their responses to Paragraphs 1 through 11, and 52 through 83 of plaintiff's Second Amended Complaint as if set forth in full herein.

85. Defendants admit that Heritage loaned several of the coins identified in Exhibit A to plaintiff's Second Amended Complaint to PCGS so that the coins could be examined by P.C.G.S. and/or the F.B.I., and that those coins were later returned to Heritage. Further answering, Defendants deny the remaining allegations contained in Paragraph 85.

86. Defendants deny the allegations contained in Paragraph 86.

87. Defendants admit that plaintiff has demanded the return of the coins identified in Exhibit A to his Second Amended Complaint and that Defendants have not returned those coins to him. Further answering, Defendants deny the remaining allegations contained in Paragraph 87.

1 88. Defendants deny the allegations contained in Paragraph  
2 88.

3  
4 ANSWER TO COUNT NINE

5 89. Defendants incorporate herein their responses to  
6 Paragraphs 1 through 11, and 52 through 88 of plaintiff's Second  
7 Amended Complaint as if set forth in full herein.

8 90. Defendants deny the allegations contained in Paragraph  
9 90.

10 91. Defendants admit that Heritage and PCGS claim an  
11 interest in the coins identified in Exhibit A to plaintiff's  
12 Second Amended Complaint, but deny the remaining allegations  
13 contained in Paragraph 91.

14 92. Defendants admit that plaintiff has demanded the return  
15 of the coins identified in Exhibit A to his Second Amended  
16 Complaint and that Defendants have not returned those coins to  
17 him. Further answering, Defendants deny the remaining  
18 allegations contained in Paragraph 92.

19  
20 ANSWER TO COUNT TEN

21 93. Defendants incorporate herein their responses to  
22 Paragraphs 1 through 11, and 52 through 92 of plaintiff's Second  
23 Amended Complaint as if set forth in full herein.

24 94. Defendants deny the allegations contained in Paragraph  
25 94.

26 95. Defendants admit that plaintiff has demanded certain  
27 sums from them which have not been paid, but deny the remaining  
28 allegations contained in Paragraph 95.

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FOURTH AFFIRMATIVE DEFENSE

(Lack Of Defamatory Statements)

99. Any alleged statements made by Defendants concerning plaintiff were not defamatory.

FIFTH AFFIRMATIVE DEFENSE

(Truth)

100. Any alleged statements made by Defendants concerning plaintiff were true.

SIXTH AFFIRMATIVE DEFENSE

(Lack Of Malice)

101. Any alleged statements made by Defendants concerning plaintiff were made without malice or ill-will.

SEVENTH AFFIRMATIVE DEFENSE

(Statements Of Opinion)

102. Any alleged statements made by Defendants concerning plaintiff were statements of opinion.

EIGHTH AFFIRMATIVE DEFENSE

(Self-Interest)

103. Any alleged statements made by Defendants concerning plaintiff were reasonably calculated to further and protect Defendants' self-interest.

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1 NINTH AFFIRMATIVE DEFENSE

2 (Common Interest)

3 104. Any alleged statements made by Defendants concerning  
4 plaintiff were reasonably calculated to further and protect a  
5 common interest of Defendants and the recipients of any such  
6 statements.

7  
8 TENTH AFFIRMATIVE DEFENSE

9 (Official Investigation)

10 105. Any alleged statements made by Defendants concerning  
11 plaintiff were made in connection with an official investigation  
12 by the F.B.I. and others of alleged criminal activities by  
13 plaintiff.

14  
15 ELEVENTH AFFIRMATIVE DEFENSE

16 (Lack Of Intent)

17 106. Defendants' alleged conduct was not intended to cause,  
18 or done in reckless disregard of the probability of causing,  
19 severe emotional distress.

20  
21 TWELFTH AFFIRMATIVE DEFENSE

22 (Privilege)

23 107. Defendants' alleged conduct was privileged under the  
24 applicable statutes, including, but not limited to, Civil Code  
25 §47(3).

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THIRTEENTH AFFIRMATIVE DEFENSE

(Lack Of Possession)

108. Defendants Ivy and Halperin never took personal possession of or retained the coins identified in Exhibit A to plaintiff's Second Amended Complaint.

FOURTEENTH AFFIRMATIVE DEFENSE

(Breach Of Express And Implied Warranty)

109. Plaintiff breached his express and implied warranties to Defendants by failing to deliver PCGS coins in the condition and grades as warranted at the time of contract.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Failure To Mitigate Damages)

113. Plaintiff failed to use reasonable care or to take reasonable steps to mitigate the damages allegedly caused by Defendants. Therefore, any damages awarded to plaintiff should be reduced to the extent of his failure to mitigate.

NINETEENTH AFFIRMATIVE DEFENSE

(California Commercial Code §2717)

114. Defendants are entitled to deduct the amount of the damages they incurred due to plaintiff's delivery of nonconforming PCGS coins from any amounts claimed by plaintiff to be due and owing to him from Defendants.

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1 WHEREFORE, Defendants pray that plaintiff take nothing by  
2 his Second Amendment Complaint, for costs of suit, for attorneys'  
3 fees, and for such other and further relief as this Court deems  
4 proper.

5  
6 DATED: February 27, 1989

7 MAYER, BROWN & PLATT  
8 WILLIAM J. REIFMAN  
9 RICHARD A. MCDONALD

10 By William J. Reifman  
11 William J. Reifman

12 Attorneys For Defendants  
13 And Cross-Complainants

14 HERITAGE CAPITAL CORPORATION,  
15 STEVEN IVY AND JAMES HALPERIN  
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DECLARATION RE PROOF OF SERVICE BY HAND DELIVERY

I, SEBASTIÁN GODELIP, declare:

1. I am employed in the County of Los Angeles, State of California by First Courier. I am over the age of 18 and am not a party to the within action. My business address is: 1511 W. Beverly, Los Angeles, California 90026.

2. On February 27, 1989, I served the foregoing document described as ANSWER AND AFFIRMATIVE DEFENSE OF DEFENDANTS HERITAGE CAPITAL CORPORATION, STEVEN IVY AND JAMES HALPERIN on all interested parties in this action by placing a true copy enclosed in a sealed envelope addressed as follows:

Robert M. Ross, Esq.  
Klass, Helman & Ross  
10850 Wilshire Blvd., Suite 500  
Los Angeles, California 90024

3. I delivered such envelope by hand to the offices of the addressee. Executed on February 27, 1989, at Los Angeles, California.

[State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Sebastián Godelip

DECLARATION RE PROOF OF SERVICE BY HAND DELIVERY

I, BEN HORSFALL, declare:

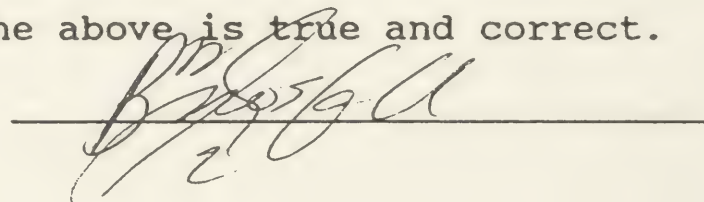
1. I am employed in the County of Los Angeles, State of California by First Courier. I am over the age of 18 and am not a party to the within action. My business address is: 1511 W. Beverly, Los Angeles, California 90026.

2. On February 27, 1989, I served the foregoing document described as ANSWER AND AFFIRMATIVE DEFENSE OF DEFENDANTS HERITAGE CAPITAL CORPORATION, STEVEN IVY AND JAMES HALPERIN on all interested parties in this action by placing a true copy enclosed in a sealed envelope addressed as follows:

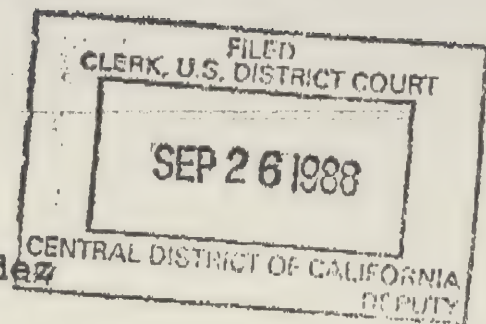
Peter J. Wilson, Esq.  
Latham & Watkins  
650 Town Center Drive, Suite 2000  
Costa Mesa, CA 92626

3. I delivered such envelope by hand to the offices of the addressee. Executed on February 27, 1989, at Los Angeles, California.

[State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



1 ROBERT M. ROSS  
2 KLAB, HELMAN & ROSS  
3 10850 Wilshire Blvd., Suite 500  
4 Los Angeles, California 90024  
5 213/277-2224



6 Attorneys for Plaintiff Gary Fernandez

7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 GARY FERNANDEZ,

12 Plaintiff,

13 v.

14 DAVID HALL; PROFESSIONAL COIN  
15 GRADING SERVICE, a California  
16 corporation; STEVEN IVY;  
17 JAMES HALPERIN; HERITAGE  
18 CAPITAL CORPORATION, a Texas  
19 corporation; and DOES 1  
20 through 20, inclusive,

21 Defendants.

Case No. SA CV88-556 JSL  
(RWR)  
COMPLAINT FOR DAMAGES FOR  
VIOLATION OF 18 U.S.C. SECTION  
1961 (CIVIL RICO); FOR GOODS  
SOLD AND DELIVERED; BREACH OF  
ORAL CONTRACT; INTENTIONAL  
INFLECTION OF EMOTIONAL  
DISTRESS; NEGLIGENT INFLECTION  
OF EMOTIONAL DISTRESS;  
CONVERSION; CLAIM AND DELIVERY;  
AND PENDENT STATE COMMON COUNT  
CLAIMS  
[DEMAND FOR JURY TRIAL]  
[STATE CASE, ORANGE COUNTY  
SUPERIOR COURT CASE NO. 364410]

22 Plaintiff alleges:

23 JURISDICTION AND VENUE

24 1. This action arises under 18 U.S.C. Sections 1961 and  
25 1962 and pendant state claims as hereinafter more fully alleged  
26 This court has jurisdiction under and by virtue of 18 U.S.C.  
27 Section 1961 et seq.

28 2. Venue is founded in this judicial district upon 18  
U.S.C. Section 1965(a) as the place of residence of defendant David

1 Hall is in this district, as well as this being the district in  
2 which defendant Professional Coin Grading Service has its corpora  
3 offices, where plaintiff's coins have been secreted, and is a  
4 district within which Heritage Capital Corporation does business.  
5

6 PARTIES

7 3. At all times herein mentioned, plaintiff Gary Fernandez  
8 was and now is, a citizen of the United States, and a resident of  
9 the State of California, County of Alameda, and at all times here  
10 mentioned was doing business throughout the state of California as  
11 the United States as a rare coin dealer.

12 4. Plaintiff is informed and believes, and thereon alleges  
13 that Professional Coin Grading Service (hereinafter referred to as  
14 "PCGS") is, and at all times herein mentioned was, a California  
15 corporation, with its principal place of business in the County of  
16 Orange, City of Newport Beach, State of California. Plaintiff is  
17 further informed and believes, and thereon alleges, that said  
18 corporation does business throughout the United States and is an  
19 enterprise within the meaning of 18 U.S.C. Section 1961(4).

20 5. Plaintiff is informed and believes, and thereon alleges  
21 that defendant David Hall is a person whose residence is in the  
22 City of Newport Beach, County of Orange, State of California.

23 6. Plaintiff is informed and believes, and thereon alleges  
24 that Heritage Capital Corporation (hereinafter referred to as  
25 "Heritage") is a corporation organized in the State of Texas and  
26 doing business throughout the State of California, including  
27 Newport Beach, California, and that Heritage is an enterprise  
28 within the meaning of 18 U.S.C. Section 1961(4).

1           7. Plaintiff is informed and believes, and thereon alleges  
2 that defendants Steven Ivy and James Halperin are now, and at all  
3 times herein mentioned were, persons who are residents of the State  
4 of Texas.

5           8. Plaintiff is ignorant of the true names and capacities  
6 and identities of defendants DOES 1 through 20 and therefore sues  
7 said defendants by such fictitious names, and will ask leave of  
8 court to amend this complaint and set forth the true names and  
9 capacities of said defendants when same are ascertained.

10          9. Plaintiff is informed and believes, and thereon alleges,  
11 that each of the Doe defendants were, and are, in some way liable  
12 for the losses hereinafter alleged to plaintiff, and plaintiff will  
13 amend this complaint to set forth the true nature of the acts  
14 and/or omissions of each said Doe defendant, proximately causing  
15 said loss to plaintiff when said loss is ascertained.

16          10. Plaintiff is informed and believes, and thereon alleges  
17 that each of the individual defendants herein, including defendant:  
18 Does 1 through 20 were and are the agents, employees or  
19 representatives of PCGS and/or Heritage, and in doing the things  
20 herein alleged, were acting within the scope and agency of said  
21 employment.

22          11. Plaintiff is informed and believes, and thereon alleges  
23 that each and all of the defendants herein, in doing the act or  
24 actions herein alleged, were acting in consort with, and as the  
25 agents, employees, or representatives of each and all of their co-  
26 defendants.

27

28

COUNT ONE

(RICO)

12. Plaintiff hereby incorporates and realleges Paragraphs through 11 hereat as though fully set forth at this place.

13. At all times herein mentioned David Hall, Steven Ivy and James Halperin were and are "persons" within the meaning of 18 U.S.C. Section 1961(3) et seq.

14. At all times herein mentioned Professional Coin Grading Service and Heritage Capital Corporation were enterprises engaged in the numismatic industry. Plaintiff is informed and believes and thereon alleges that PCGS was in the business of grading coins by appraisal. Plaintiff is further informed and believes that once graded (appraised) said coins are then sealed in a plastic container with the grade (appraisal) affixed thereto with the express purpose and intent of placing the thus graded and encased coin into interstate commerce for sale and resale in the numismatic industry.

15. Plaintiff is informed and believes, and thereon alleges that Heritage Capital Corporation is an enterprise engaged in the business of buying and selling coins within the numismatic industry. Plaintiff is further informed and believes and thereon alleges that the price paid for or received by Heritage is, in part, determined by the grade (appraisal) of any specific coin being bought or sold by it.

16. Plaintiff is informed and believes and thereon alleges that defendants Hall, Ivy and Halperin did form an association and conspiracy to engage in and violate plaintiff's rights by the conduct hereinafter expressly set forth.

1        17. Plaintiff is informed and believes and thereon alleges  
2 that defendants Ivy, Halperin and Hall have engaged in at least  
3 five racketeering acts as prohibited by 18 U.S.C. 1961, et seq. as  
4 follows:

5            (a) Within ten years last past, plaintiff is informed  
6 and believes that defendant Hall violated 18 U.S.C. Sections 471,  
7 472, and 473 relating to counterfeiting;

8            (b) Within ten years last past, plaintiff is informed  
9 and believes that defendant Ivy violated 18 U.S.C. Sections 2314  
10 and 2315 relating to interstate transportation of stolen property;

11           (c) Plaintiff is informed and believes, and thereon  
12 alleges that defendants Ivy, Halperin and Does 2 through 5,  
13 inclusive, committed theft by fraud in violation of 18 U.S.C.  
14 Section 1951, in that they fraudulently acquired coins and  
15 inventory of plaintiff, in interstate commerce, by making the  
16 following material misrepresentations of fact:

17            (i) On or about July 14, 1988, defendants  
18 Halperin and Ivy, and Does 2 through 5, inclusive, represented to  
19 plaintiff and plaintiff's agents that they would pay the fair  
20 market price of \$891,378 as agreed upon by the parties and set  
21 forth in Exhibit "A" hereof for gold and silver coins;

22            (ii) That defendants Halperin, Ivy and Does 2  
23 through 5, inclusive, represented that they were acquiring said  
24 coins for, and on behalf of the enterprise known as Hexitage  
25 Capital Corporation, in an arms length business transaction common  
26 within the numismatic industry;

27            (iii) That plaintiff would be paid the agreed upon  
28 sum of \$891,378 for the specified coins, payment upon delivery.

1 (d) The truth, unknown to plaintiff, was that:

2 (i) Defendants Ivy, Halperin, and Does 2 through  
3 5, inclusive, acting in association and conspiracy with defendants  
4 Hall and Does 6 through 10, intended to acquire, without payment  
5 therefor, all of plaintiff's coin inventory for the purpose of  
6 putting plaintiff out of business, in violation of 18 U.S.C.  
7 Section 1952;

8 (ii) That defendants Halperin, Ivy, and Does 2  
9 through 5, inclusive, acting as directors, officers, agents and  
10 employees or heritage, and acting at all times within the scope of  
11 such agency and employment, sought to deprive plaintiff of his  
12 property without any compensation whatsoever, and intended to and,  
13 in fact did, effect a theft of plaintiff's property having an  
14 approximate value at the time of said theft of the sum of \$891,378.

15 (e) That after taking possession of plaintiff's coins,  
16 defendants Hall, Ivy and Halperin violated 18 U.S. C. Sections 2314  
17 and 2315 by transporting said stolen property from Ohio to the  
18 State of New York.

19 18. If plaintiff had known the true facts to be as set forth  
20 above, plaintiff would not have engaged in the transaction  
21 hereinabove alleged, nor would plaintiff have delivered said coins  
22 to Ivy, Halperin or Does 1 through 5.

23 19. Plaintiff was reasonable in assuming the veracity and  
24 truth of the statements of defendants Ivy, Halperin and Does 2  
25 through 5 in that said defendants and plaintiff have done business  
26 over a several year period in the past, and plaintiff has always  
27 been paid for coins purchased by said defendants.

28 20. As a direct and proximate result of the theft by fraud

1 and device as hereinabove alleged, plaintiff has sustained damages  
2 in the sum of \$891,378.

3       21. Plaintiff is informed and believes and thereon alleges  
4 that in accordance with the association between defendants Ivy,  
5 Halperin, Does 2 through 5 and defendant Hall, and Does 6 through  
6 10, acting as agents and employees of Professional Coin Grading  
7 Service, an enterprise (as defined in 18 U.S.C. Section 1961(4))  
8 engaged in the numismatic industry did publish and advise through  
9 interstate wire media known as "ACT" that plaintiff is a  
10 counterfeiter, and ascribed and accused plaintiff of other  
11 slanderous acts for the purpose of injuring plaintiff and his  
12 business by preventing anyone in the numismatic industry from  
13 engaging in any business transactions with plaintiff.

14       22. In furtherance of this conspiracy and association  
15 between Hall, Ivy and Halperin, defendants Ivy, Halperin and Does 2  
16 through 5, inclusive, caused all of the coins acquired from  
17 plaintiff as referred to Paragraph 17 above, to be transported  
18 through interstate commerce from the State of Ohio to the State of  
19 New York. Said interstate transportation of stolen items  
20 constitutes an act of racketeering within 18 U.S.C. Sections 2314  
21 and 2315.

22       23. Plaintiff is informed and believes, and alleges thereon,  
23 that within ten years last passed, defendant Hall, acting as an  
24 employee, agent, director and officer of that enterprise known as  
25 Professional Coin Grading Services, engaged in further and other  
26 racketeering acts prohibited by 18 U.S.C. Section 1961, et seq.,  
27 including but not limited to the following:

28       (a) Putting into interstate commerce counterfeit

1 currency or coins as prohibited by 18 U.S.C. Sections 471, 472 and  
2 473;

3 (b) Engaging in acts of mail and wire fraud for and in  
4 connection with the seeking of an appraisal by PCGS's competitor of  
5 said counterfeit currency or coins, in violation of 18 U.S.C.  
6 Section 1951.

7 24. By reason of the acts of racketeering and the pattern of  
8 racketeering as above alleged by defendants Ivy, Halperin, Hall and  
9 Does 2 through 10, inclusive, and the conspiracy to commit the acts  
10 of theft by fraud and interstate transportation of stolen goods,  
11 plaintiff has been damaged in the sum of \$891,378 and, accordingly,  
12 plaintiff seeks damages in said sum and that said sum be tripled  
13 and that defendants be required to pay plaintiff's attorney's  
14 fees.

15 25. Plaintiff is informed and believes, and thereon alleges  
16 that at all times herein mentioned defendants Ivy, Halperin and  
17 Does 2 through 5, inclusive, were the agents, employees, directors  
18 or officers of the enterprise known as Heritage Capital Corporation  
19 and that in doing the things herein alleged were acting within the  
20 course and scope of said agency and employment, thus rendering  
21 Heritage liable for any damages attributable to said persons by  
22 reason of respondeat superior.

23 26. Plaintiff is informed and believes, and thereon alleges  
24 that Defendant Hall and defendants Does 6 through 10 were acting at  
25 all times herein mentioned as the agents, employees, officers or  
26 directors of the enterprise known as Professional Coin Grading  
27 Services and that at all times herein mentioned they were acting  
28 within the course and scope of said agency and employment;

1 accordingly, plaintiff seeks damages from Professional Coin Grading  
2 Services on the basis of respondeat superior. ~~Heritage and PCGS~~

3 27. In order to prevent further damage and harm to  
4 plaintiff, and in order to minimize the effects of the pattern of  
5 racketeering engaged in by the above-named persons, plaintiff seeks  
6 injunctive or other equitable order requiring Heritage and PCGS and  
7 its agents and employees to forthwith remit to plaintiff all coins  
8 received by them from defendant Heritage as being the coins of  
9 plaintiff.

10  
11 FACTUAL ALLEGATIONS

12 PENDENT STATE CLAIMS

13 28. On or about July 14, 1988, and to and including July 20,  
14 1988, plaintiff delivered to Doe 2, acting for defendants Ivy,  
15 Halperin, Hall and Heritage, gold and silver coins for an agreed  
16 upon sum of \$891,378. Said coins are itemized on Exhibit "A"  
17 hereof, and incorporated hereat by this reference.

18 29. Neither whole nor any part of said sum has been paid,  
19 and there is presently due, owing and payable from defendants Ivy,  
20 Halperin, Hall and Heritage to plaintiff the sum of \$891,378.

21 30. PCGS is a business enterprise presently operated through  
22 another entity, sued herein as Doe 1. Doe 1 is owned by defendants  
23 Hall, Ivy and Halperin. The business of PCGS consists of the  
24 grading, by appraisal, of valuable coins, sealing the coin so  
25 appraised in an impenetrable plastic casing with its appraisal and  
26 guaranteeing the value of the coin to be as graded based upon the  
27 then current market value for such coins of said grade.

28 31. Plaintiff is informed and believes, and thereon alleges

1 that each and all of the defendants herein, in doing the act or  
2 actions herein alleged, were acting in consort with, and as the  
3 agents, employees, or representatives of each and all of their co-  
4 defendants.

5 32. Plaintiff is informed and believes, and thereon alleges  
6 that Heritage was and is a mere sham and shell organized and  
7 operated as the alter ego of the individual defendants, Steven Ivy  
8 and James Halperin, for their personal benefit and advantage in  
9 that the individual defendants have at all times herein mentioned  
10 exercised total dominion and control over the corporate defendant  
11 and that the individual defendants were and are the only  
12 significant shareholders of the corporation. Plaintiff is informed  
13 and believes, and hereon alleges, that the individual defendants,  
14 Steven Ivy and James Halperin, and the corporate defendant,  
15 Heritage have so intermingled their personal and financial affairs  
16 that the corporate defendant was and is the alter ego of the  
17 individual defendants such that an injustice will result if the  
18 theoretical entity of the corporate defendant is not disregarded  
19 and the individual defendant's held liable for the indebtedness of  
20 the corporate defendant.

21 33. Plaintiff is further informed and believes, and thereon  
22 alleges that PCGS was and is a mere sham and shell organized and  
23 operated as the alter ego of the individual defendants David Hall,  
24 Steven Ivy and James Halperin for their personal benefit and  
25 advantage in that said individual defendants have at all times  
26 herein mentioned exercised total dominion and control over PCGS.  
27 Plaintiff is further informed and believes, and thereon alleges  
28 that the individual defendants Hall, Ivy and Halperin and the

1 corporate defendant PCGS have so intermingled their personal and  
2 financial affairs that the corporate defendant PCGS was and is the  
3 alter ego of defendant David Hall and that an injustice will result  
4 of the theoretical entity of the corporate defendant is not  
5 disregarded and the individual defendant David Hall be held liable  
6 for the indebtedness of the corporate defendant.

7  
8 COUNT TWO

9 (Against Defendants Heritage, Steven Ivy And  
10 James Halperin For Goods Sold And Delivered)

11 34. Plaintiff hereby incorporates and realleges Paragraphs  
12 through 33 hereat as though fully set forth at this place.

13 35. Within two years, on or about July 14 through July 20,  
14 1988, defendant Heritage as the alter ego of defendants Steven Ivy  
15 and James Halperin, became indebted to plaintiff for goods sold and  
16 delivered by plaintiff to defendants Heritage, Ivy and Halperin,  
17 who then and there agreed to pay the sum of \$807,378 for said  
18 goods.

19 36. Neither the whole nor any part of the above sum has been  
20 paid although demand therefore has been made and there is now due,  
21 owing and unpaid from defendants Heritage, Ivy and Halperin to  
22 plaintiff the sum of \$807,378, together with interest thereon at  
23 the rate of ten percent (10%) per annum from July 20, 1988.

24  
25 COUNT THREE

26 (For Breach Of Oral Contract Against  
27 Defendants Heritage, Ivy and Halperin)

28 37. Plaintiff hereby incorporates and realleges Paragraphs 1

1 through 36 hereat as though fully set forth at this place.

2 38. On or about July 20, 1988, plaintiff and defendants  
3 Heritage, Ivy and Halperin entered into an oral agreement whereby  
4 plaintiff agreed to sell and deliver antique gold and silver coins  
5 having an agreed value of \$807,378, and defendants Heritage, Ivy  
6 and Halperin agreed to pay the specific sum of \$807,378 for said  
7 coins.

8 39. Plaintiff has performed all conditions, covenants and  
9 promises required by him on his part to be performed in accordance  
10 with the terms and conditions of the contract and said coins were  
11 delivered to defendants Heritage, Ivy and Halperin by plaintiff  
12 through plaintiff's agent on or about July 20, 1988.

13 40. On or about July 20, 1988, defendants breached the oral  
14 agreement by failing and refusing to pay the sum agreed upon,  
15 notwithstanding that defendants Heritage, Ivy and Halperin took  
16 possession of said gold and silver coins, and have acknowledged  
17 receipt thereof and now refuse to either forthwith pay the said  
18 agreed sum of \$807,378 or to return the coins, notwithstanding  
19 demand therefore having been made.

20 41. As a direct and proximate result of the breach of  
21 contract by defendants Heritage, Ivy and Halperin, plaintiff has  
22 been damaged in the sum of \$807,378 plus interest thereon at the  
23 legal rate of ten percent (10%) per annum from July 20, 1988 until  
24 said sum is paid.

25

26

27

28

COUNT FOUR

(For Slander Per Se Against Defendants Professional  
Coin Grading Service, David Hall, Steven Ivy, James  
Halperin, Heritage Capital Corporation,  
And Does 1 Through 10, Inclusive)

42. Plaintiff hereby incorporates and realleges Paragraphs 1  
through 41 hereat as though fully set forth at this place.

43. Plaintiff is informed and believes, and thereon alleges  
that commencing on or about July 14, 1988 defendants David Hall,  
acting individually and for and on behalf of defendant PCGS and  
defendants Steven Ivy and James Halperin, acting individually and  
for and on behalf of defendant Heritage, and defendants Does 1  
through 10, inclusive, published both by speaking and upon  
information and belief, in written form, the following words, of  
and concerning the plaintiff:

(a) Defendant Hall published allegations that PCGS's  
security system had been breached and that between two hundred and  
five hundred coins were allegedly being illicitly sold as having  
been analyzed, graded and sealed by PCGS but which coins, in fact  
were not analyzed, graded and sealed by PCGS.

(b) Defendant Hall, together with defendants Ivy and  
Halperin, and defendants Does 1 through 10 orally published an  
accusation associating plaintiff with said "illicit" coins  
essentially telling people with whom plaintiff did business, and  
who then owed plaintiff money, in connection with coins sold by  
plaintiff that such persons should not do business with plaintiff.  
Said named defendants further stated that plaintiff has been  
selling illicit coins.

1 (c) Defendant Hall, individually, and defendants Ivy  
2 and Halperin, did further orally publish statements accusing  
3 plaintiff of being under investigation by the FBI for criminal  
4 and/or fraudulent conduct relating to the sale of "illicit" coins.  
5 Said defendants, along with defendants Does 1 through 10, further  
6 advised people with whom plaintiff was engaged in a business  
7 relationship not to pay plaintiff for any coins he has sold, not to  
8 do business with plaintiff because he was engaged in illicit coin  
9 sales and further stated that they were going to "close him down".

10 44. These words were heard by Joel Rettew, Charles  
11 Anastasia, Steven Ivy, James Halperin, John Highfill, Heritage  
12 Capital Corporation and other persons not presently known to  
13 plaintiff.

14 45. These words were slanderous per se because they attack  
15 plaintiff in his reputation in business and impugn to plaintiff  
16 criminal acts and fraudulent acts.

17 46. The words uttered were false because plaintiff has not  
18 altered any of the PCGS packaging, nor has plaintiff ever knowingly  
19 sold any coin in an altered PCGS package. Moreover, PCGS has  
20 placed in the marketplace packaged coins with gross errors in  
21 grading which plaintiff is informed and believes may constitute  
22 some of the allegedly "illicit" coins to which defendant Hall  
23 referred as set forth in allegations set forth in Paragraph 43,  
24 above.

25 47. The words carry a defamatory meaning because, the market  
26 value for any given coin is effected by the grading of said coin by  
27 PCGS. If a PCGS graded coin has been altered or substituted, the  
28 buyer will receive a coin having a value other than as represented

1 by the grade of the coin set forth on the tag accompanying the coin  
2 in the sealed plastic container. If a coin merchant is accused of  
3 selling "illicit" coins, no one hearing and believing said  
4 accusation will do business with such person since they cannot rely  
5 upon the value of the coins being sold by such person.

6 48. The words were understood by those who read and/or heard  
7 them in a way that defamed plaintiff because, an "illicit" coin  
8 means that either the integrity of the plastic packaging has been  
9 damaged and the coin has been replaced or substituted for another  
10 coin, or the integrity of the plastic packaging has been  
11 compromised and the paper tag showing the grading of the coin has  
12 been altered or substituted. In either way, the purchaser of the  
13 said coin is not getting that which is being represented as a PCGS  
14 specifically graded coin.

15 49. As a result of the above described words, plaintiff has  
16 suffered general damages to his reputation in the sum of  
17 \$10,000,000.

18 50. As a further proximate result of the above described  
19 words, plaintiff has suffered the following special damages:

20 (a) Defendants Heritage, Ivy and Halperin have failed  
21 and refused, and continue to fail and refuse to pay the sum of  
22 \$891,378 due and owing for coins sold to said defendants by  
23 plaintiff;

24 (b) Plaintiff has been unable to engage in plaintiff's  
25 business, trade and profession, because no one in the coin business  
26 will buy from or sell to plaintiff. Plaintiff is informed and  
27 believes, and thereon alleges that the total cessation of his  
28 business from and after July 20, 1988 is directly attributable to

1 the allegations made against him as hereinabove set forth and his  
2 entire business has ceased, all to his injury in the sum of  
3 \$10,000,000.

4 51. The above described words were spoken by defendant Hall  
5 and with malice, oppression and a reckless disregard for  
6 plaintiff's rights. Plaintiff is informed and believes, and  
7 thereon alleges, that he has been made a scapegoat by defendants in  
8 order to establish a focus of blame and to shift the attention from  
9 recent internal errors which if known to the community of coin  
10 traders, would adversely affect the marketplace since it would  
11 become difficult to rely upon the grading of PCGS to determine the  
12 value of a coin. By reason of such intentional, malicious and  
13 oppressive acts of the defendants and each of them, plaintiff is  
14 entitled to an award of exemplary and punitive damages in the  
15 amount of \$10,000,000.

16  
17 COUNT FIVE

18 (For Intentional Infliction Of Emotional Distress

19 Against Defendants Hall, PCGS, Ivy, Halperin,

20 Heritage, And Does 1 Through 10, Inclusive)

21 52. Plaintiff hereby incorporates and realleges Paragraphs  
22 through 51 hereat as though fully set forth at this place.

23 53. Plaintiff is informed and believes and thereon alleges  
24 that in doing the acts hereinabove alleged, defendants intended to  
25 cause plaintiff great emotional distress. As a proximate result of  
26 the acts of defendants, and each of them as hereinabove described,  
27 plaintiff has sustained and continues to sustain emotional distress  
28 and mental suffering, not limited to sleepless nights, anxiety,

1 nightmares and eating disorders, all to plaintiff's general damage  
2 in an amount not yet ascertained. Plaintiff will seek leave of  
3 this court to amend this complaint when same are ascertained.

4 54. As a further direct and proximate result of said  
5 conduct, plaintiff will incur medical and incidental expenses  
6 relating to the distress, the exact amount not yet ascertained and  
7 plaintiff will seek leave of this court to amend this complaint  
8 when same are ascertained.

9 55. By reason of the intentional acts of defendants,  
10 defendants, and each of them, acting with malice and oppression,  
11 designed to cause plaintiff mental and emotional distress.  
12 Defendants, and each of them, are liable to plaintiff for exemplary  
13 and punitive damages in the sum of \$10,000,000.

14  
15 COUNT SIX

16 (For Negligent Infliction Of Emotional Distress)

17 56. Plaintiff hereby incorporates and realleges Paragraphs 1  
18 through 55 hereat as though fully set forth at this place.

19 57. Plaintiff is informed and believes, and thereon alleges  
20 that each and all of the representations hereinabove set forth were  
21 made by defendants, and each of them, without any justification or  
22 fact, or without any knowledge, information or evidence to support  
23 any of the defendants' claims as alleged in Paragraph 21, herein.  
24 As a direct and proximate result of the recklessness of the  
25 defendants, and each of them, in making the allegations as set  
26 forth in Paragraph 21, and in making said allegations without any  
27 factual basis therefore, defendants and each of them were grossly  
28 negligent.

1           58. As a direct and proximate result of the recklessness of  
2 the conduct of defendants and each of them plaintiff has sustained  
3 damage to his reputation in the business community, has sustained  
4 monetary damages in a sum in excess of \$950,000 and has sustained  
5 severe anguish and anxiety, mental and emotional distress,  
6 discomfort, pain and suffering, all to his general damages in a sum  
7 to be ascertained at the time of trial. Plaintiff will ask leave  
8 of the court to amend this complaint to set forth the same when  
9 ascertained.

10           59. As a direct and proximate result of the actions of the  
11 defendants, and each of them, plaintiff is informed and thereon  
12 alleges that he will sustain medical and incidental expenses  
13 relating to and in connection with the emotional distress herein  
14 alleged, in an amount not yet fully ascertained, and plaintiff will  
15 ask leave of the court to amend this complaint to set forth the  
16 amount of special and incidental damages sustained, including but  
17 not limited to those for medical practitioners when same are  
18 ascertained.

19  
20                           COUNT SEVEN

21                           (For Conversion Against Defendants

22                           Ivy, Halperin, Heritage, Hall And PCGS)

23           60. Plaintiff hereby incorporates and realleges Paragraphs  
24 through 59 hereat as though fully set forth at this place.

25           61. Plaintiff is informed and believes, and thereon alleges  
26 that on or about July 22, 1988, defendants Ivy and Halperin, for  
27 and on behalf of defendant Heritage did convey, transfer and  
28 deliver to David Hall and PCGS each and every item of personal

1 property described upon Exhibit "A" hereof, attached hereto and  
2 incorporated hereat by this reference.

3 62. Plaintiff alleges that said items, having not been paid  
4 for, are the personal property of plaintiff.

5 63. Demand for the immediate return of plaintiff's property  
6 has been made upon defendants Hall, PCGS, Ivy, Halperin and  
7 Heritage, and said defendants, each and all, have refused to return  
8 said items, but have converted same to their own use and benefit,  
9 in derogation of plaintiff's rights thereto.

10 64. As a direct and proximate result of the conversion of  
11 said items of personal property, plaintiff has been deprived of the  
12 use and benefit of same, and defendants, and each of them, have  
13 been unjustly enriched by the use and benefit of same, all to  
14 plaintiff's damages in the sum of (\$807,378).

15

16

COUNT EIGHT

17

(For Claim And Delivery Against Heritage, Ivy,

18

Halperin, Hall And PCGS)

19

20 65. Plaintiff hereby incorporates and realleges Paragraphs 1  
21 through 64 hereat as though fully set forth at this place.

22

23 66. Plaintiff is informed and believes, and thereon alleges  
24 that, in the absence of payment for personal property identified  
25 and listed on Exhibit "A" hereof, and incorporated hereat by this  
26 reference, plaintiff is the true and only owner of said items.

27

28 67. Plaintiff is informed and believes, and thereon alleges,  
29 that defendants PCGS, Hall, Heritage, Ivy and/or Halperin, and Does  
30 11 through 20, inclusive, claim an interest in and title to said  
31 items of personal property adverse to the claims of plaintiff.

1           68. Plaintiff has demanded return of the personal property  
2 from defendants named herein, and defendants have failed and  
3 refused, and continue to fail and refuse to deliver to plaintiff  
4 said items.

5  
6                           COUNT NINE

7                           (For Goods Sold And Delivered)

8           69. Plaintiff hereby incorporates and realleges Paragraphs 1  
9 through 68 hereat as though fully set forth at this place.

10           70. Within two years and before July 14, 1988, defendant  
11 Heritage as the alter ego of defendants Steven Ivy and James  
12 Halperin, became indebted to plaintiff for goods sold and delivered  
13 by plaintiff to defendants Heritage, Ivy and Halperin, who then and  
14 there agreed to pay the sum of \$84,310 for said goods.

15           71. Neither the whole nor any part of the above sum has been  
16 paid although demand therefore has been made and there is now due,  
17 owing and unpaid from defendants Heritage, Ivy and Halperin to  
18 plaintiff the sum of \$84,310, together with interest thereon at the  
19 rate of ten percent (10%) per annum from July 1, 1988.

20           WHEREFORE, plaintiff prays for judgment against defendants,  
21 and each of them, as follows:

- 22           1. For general damages according to proof;
- 23           2. For special damages according to proof;
- 24           3. For punitive damages according to proof;
- 25           4. For the immediate return of plaintiff's personal  
26 property;
- 27           5. For attorney's fees incurred in connection with the  
28 recovery of said personal property;

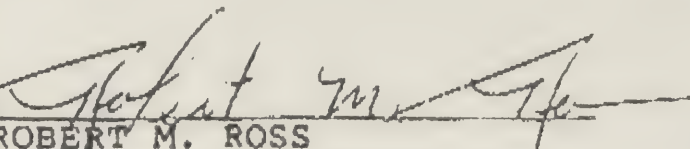
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6. For costs of suit incurred herein; and

7. For such other and further relief as the court may deem  
just and proper.

DATED: 9-9-88

KLASS, HELMAN & ROSS

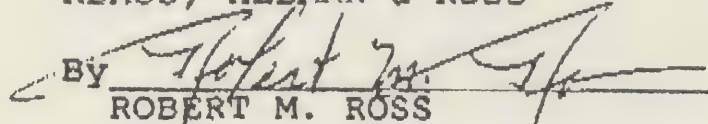
BY   
ROBERT M. ROSS  
Attorneys for Plaintiff  
Gary Fernandez

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: 9-9-88

KLASS, HELMAN & ROSS

BY   
ROBERT M. ROSS  
Attorneys for Plaintiff  
Gary Fernandez

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
99	\$	PCGS 65			2550
90-cc	\$	/			7750
90-3	\$	/	2325		4650
01	\$	/	800		1600
01-0	\$	/			1425
21-1	\$	/			2100
81	\$	64			320
81-0	\$	64			345
85-cc	\$	64			350
90	\$	✓			635
90-cc	\$	✓			1910
91-3	\$	✓			465
91-cc	\$	✓	715		1430
91-0	\$	✓			1100
003	\$	✓			575
TOTAL					27205

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE	
NAME Hew					
ADDRESS					
CASH		CONSIGNMENT		CHECK #	
QTY	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE AMOUNT
1	78	\$	PCGS 65		3395
1	80	\$	PCGS 65		4125
2	82-cc	\$	PCGS 65	925	1850
10	83-cc	\$	PCGS 65	697	6970
1	84	\$	PCGS 65		900
1	84-0	\$	PCGS 65		370
2	84-cc	\$	PCGS 65	697	1394
1	85-cc	\$	PCGS 65		1450
1	89	\$	PCGS 65		2635
1	89-3	\$	PCGS 65		4100
1	90-0	\$	PCGS 65		6775
1	91-cc	\$	PCGS 65		5000
4	96	\$	PCGS 65	980	3920
1	97	\$	PCGS 65		1695
2	98	\$	PCGS 65	1100	2200
TOTAL				46779	
RECEIVED BY:					

Exhibit

Exhibit A

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE		
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
		20	Libs PCGS 62		665	3990
		20	Shs -		650	7800
		20	St -		630	630
		20	Shs PCGS 63		940	53580
		20	Shs PCGS 64		1660	1660
	49	10	Lib 60			310
		20	Lib PCGS 63			1550
		20	Shs PCGS 64		1660	23240
		20	Shs PCGS 63		940	18800
		20	Shs 63 Better		975	1950
						115510
RECEIVED BY					TOTAL	
					115510	

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

pg 3

LOCATION		PHONE		DATE		
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
			<del>1 91cc \$ PCGS 63</del>			<del>335</del>
		1 97	\$ PCGS 66			4200
		1 87	\$ PCGS 65 PL			625
			PGS			4825
			PG 1			46779
			1 2			27205
			X 1.10			78809
						7880
						86684
		1 91cc	\$ PCGS 63			335
RECEIVED BY					TOTAL	
					87024	

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

NAME		PHONE		DATE	
u					
ADDRESS					
CASH		CONSIGNMENT		CHECK #	
DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
9/2		5th PCGS 64		1660	3320
8/20		Liss PCGS 64		400	24000
1/12/10		Ind PCGS 64			6350
1/1	15	Liss PCGS 63			1900
					35570
TOTAL					35570

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		PHONE		DATE		
NAME						
ADDRESS						
CASH		CONSIGNMENT		CHECK #		
QTY	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
- 1	1905	25	Liss PCGS 64			3450
- 1	28	2.5	Ind PCGS 63			1325
- 1	27	2.5	Ind PCGS 64			3650
- 1	28	2.5	Ind PCGS 64			3650
- 1	01	5	Liss ✓			5350
- 1	08	5	Ind 63			3700
- 1	01-3	10	Liss 63			2425
- 1	02-5	10	Liss 63			2425
- 1	07	10	Liss 63			2425
- 10		20	5th PCGS 64	3800		38000
- 1	26	2.5	Ind PCGS 64			8025
- 28		20	5th 63 Heller	960		26880
- 2		20	Liss 63	1550		3100
- 2		20	St 64	1660		3320
- 1	01-3	20	St	1625		1625
TOTAL						109350

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SEP-28-88 WED 11:02 KLASS, HELMAN & ROSS P. 25

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION	PHONE	DATE
		7-20-88

NAME	ADDRESS
H. J. [unclear]	

CASH	CONSIGNMENT	CHECK #

QTY	DATE	DEMON	DESCRIPTION	COS	UNIT PRICE	AMOUNT
37			25 [unclear]		1660	11720
1			1 [unclear]			65
2			1 [unclear]			100
2			1 [unclear]			40
1			1 [unclear]			40
1			1 [unclear]			40
1			1 [unclear]		11	11
1			1 [unclear]		85	85
1			1 [unclear]		200	200
1			1 [unclear]		1100	1100
1			1 [unclear]		1500	1500
1			1 [unclear]		780	780
1			1 [unclear]		1675	1675
1			1 [unclear]		1200	1200
TOTAL						27200

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# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION	PHONE	DATE

NAME	ADDRESS
Heritage	

CASH	CONSIGNMENT	CHECK #

QTY	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
42			Misc PCs			
			that I bought			
			from Heritage			
			for B. Fazio			
TOTAL						

RECEIVED BY

TOTAL

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

Cinci		PHONE	DATE		
Heritage					
Dallas TX					
CASH		CONSIGNMENT		CHECK #	
DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT
	20	Sts PCGS 65		3700	40700
4-2	5	Ind PCGS 63		3700	3700
	10	Ind PCGS 63		1975	3950
	10	Lis PCGS 63		2375	2375
	20	Lis PCGS 63		1550	21700
	10	Ind PCGS 64		6350	12700
	20	Lis PCGS 64			<del>12700</del>
	20	St PCGS 63		930	17670
	20	St PCGS 64	Mine		1650
	20	Lis ✓ 63	Mine		1550
					105495
TOTAL					
RECEIVED BY:					

# BRYAN FAZIO RARE COINS

P.O. Box 5262  
Kingwood, Texas 77325  
(713) 360-3236

LOCATION		Cinci		PHONE	DATE		7-15-83			
NAME									Heritage	
ADDRESS									311 MARKET St Dallas TX 5202	
CASH			CONSIGNMENT			CHECK #				
QTY.	DATE	DEMON	DESCRIPTION	COST	UNIT PRICE	AMOUNT				
13		20	Lis S-63		1550	20150				
8		2.5	Ind PCGS 64		3525	28200				
1	32	10	Ind PCGS 63		1975	1975				
1	32	10	Ind PCGS 64		6350	6350				
1	04	20	Lis PCGS 65			11700				
2	00	2.5	Lis PCGS 65		6450	2900				
2	03	2.5	Lis PCGS 64		3275	3275				
1	26	2.5	Ind PCGS 63		1310	1310				
1	08	5	Ind PCGS 63		3700	3700				
1	10-3	5	Ind PCGS 63		3700	3700				
1		20	St			2260				
TOTAL										
RECEIVED BY:										